

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

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**SPECIAL SESSION**  
**1993**

Convened on Monday, August 23  
and  
Adjourned sine die on Monday, September 13

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**REGULAR SESSION**  
**1994**

Convened on Wednesday, January 19, 1994  
and  
Adjourned sine die on Monday, May 2, 1994

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Published by Authority of the  
Revisor of Statutes  
Honolulu, Hawaii

## AUTHORITY

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

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



## PREFACE

This volume contains all the laws of the 1993 Special Session and the Regular Session of 1994. The text of the laws as enacted is followed except for obvious typographical errors, which have been corrected; and the text is printed in full except for laws repealing existing statutes.

As authorized by HRS §23G-16.5, amendatory legislation contains brackets (designating matter deleted from statutes) or underscoring (designating new matter added). However, the text is edited to omit the bracketed matter for HRS sections repealed in their entirety and to delete the underscoring from new HRS sections.

Explanatory notes appear at the end of the corresponding laws. The notes clarify editorial changes and inconsistencies in text.

Samuel B. K. Chang  
Revisor of Statutes

Honolulu, Hawaii  
July 1, 1994

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Daniel K. Akaka

House of Representatives:  
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Patsy T. Mink

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**STATE EXECUTIVE OFFICERS**

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Lieutenant Governor ..... Benjamin J. Cayetano

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REGULAR SESSION  
1994**

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President Pro Tempore ..... Lehua Fernandes Salling  
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Second Vice President ..... Dennis M. Nakasato  
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D — Democrats.....	22
R — Republicans .....	3

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<sup>1</sup>Appointed to seat vacated by the death of Mike O’Kieffe.

<sup>2</sup>Appointed to seat vacated by Rosalyn Baker.

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Fifty-First District—(Oahu)  
Jackie Young (D)

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D — Democrats.....	47
R — Republicans .....	4

# TABLE OF CONTENTS

	<b>PAGE</b>
List of Acts .....	x
Text of Acts, Special Session 1993 .....	1
Text of Acts, Regular Session 1994 .....	83
Proposed Constitutional Amendments .....	901
Committee Reports of Measures Enacted .....	908
Tables Showing Effect of Acts	
A. Sections of Hawaii Revised Statutes Affected .....	913
B. Session Laws of Hawaii Affected .....	919
C. Sections of Hawaiian Homes Commission Act of 1920 Affected .....	920
D. Sections of State Constitution Affected .....	920
General Index .....	921

**LIST OF ACTS**  
**SEVENTEENTH STATE LEGISLATURE**

**SPECIAL SESSION 1993**

<b>ACT</b>	<b>BILL</b>	<b>SUBJECT</b>	<b>PAGE</b>
1	H.B. S1-93	General obligation bonds authorization—amendments .....	1
2	H.B. S2-93	Appropriations—highway bond payments .....	8
3	H.B. S3-93	Appropriations—collective bargaining unit 11 .....	9
4	H.B. S6-93	Motor vehicle insurance—amendments .....	9
5	H.B. S9-93	Appropriations—collective bargaining unit 9 .....	19
6	H.B. S10-93	Appropriations—collective bargaining excluded employees .....	20
7	H.B. S7-93	Convention center—site and development .....	20
8	S.B. S3-93	Procurement code .....	37

**REGULAR SESSION 1994**

1	H.B. 2280	Appropriations—legislative branch .....	83
2	H.B. 3322	Appropriations—emergency financial assistance .....	85
3	H.B. 2279	Coastal zone management—policies .....	86
4	H.B. 2326	District courts—jurisdiction .....	89
5	H.B. 2784	Statutory revision .....	90
6	H.B. 2818	Uniform simultaneous death act—exceptions .....	92
7	H.B. 2968	Judiciary history center .....	93
8	H.B. 2986	Adoption—notice .....	94
9	H.B. 2988	Process servers—repealed .....	95
10	H.B. 3192	Tax administration fund .....	96
11	H.B. 3406	Kona and Hilo hospitals—name change .....	96
12	H.B. 3417	General excise tax—revocable trusts .....	97
13	S.B. 2963	Internal revenue code—conforming amendments .....	98
14	H.B. 3145	Housing finance and development—purchase of larger unit .....	101
15	H.B. 3187	Interest on taxes .....	102
16	H.B. 3350	Tax relief for natural disaster losses .....	104
17	H.B. 3675	Appropriations—Kauai disaster relief .....	104
18	S.B. 2966	Income tax—claiming refund or credit .....	105
19	S.B. 2970	Taxation—refunds .....	106
20	S.B. 2971	Taxation—statute of limitations, bankruptcy proceedings .....	108
21	S.B. 3047	State funds—checks .....	109
22	H.B. 1642	Family courts—school attendance records .....	109
23	H.B. 2319	Vital statistics—paternity .....	110
24	H.B. 3138	Child support enforcement .....	111
25	H.B. 3511	Rules of evidence—character evidence .....	113
26	H.B. 2318	Parentage—out of state paternity determinations .....	114
27	H.B. 2320	Parentage—genetic tests .....	114
28	H.B. 2181	Motor vehicles—length .....	115
29	H.B. 2234	Naturopaths—qualifications for licensure .....	117
30	H.B. 2287	Motor vehicles—weight loads .....	117

ACT	BILL	SUBJECT	PAGE
31	H.B. 2327	Motor vehicles—license plate disposals .....	119
32	H.B. 2334	Tourism marketing council—tourism marketing plan .....	120
33	H.B. 2361	Traffic code—driver retraining for violation .....	120
34	H.B. 2462	Insurance companies—reinsurance credit .....	121
35	H.B. 2825	Charitable organizations—donor list .....	124
36	H.B. 3150	Military justice—training .....	126
37	H.B. 3155	Hawaiian home lands—successors to lessees .....	127
38	H.B. 3171	Ocean recreation—penalties for violations .....	128
39	H.B. 3208	Pharmacists—regulation; sunset .....	129
40	H.B. 3213	Travel agencies—sunset .....	131
41	H.B. 3304	Travel agencies—education fund .....	131
42	H.B. 3305	Osteopathy—licensing .....	132
43	H.B. 3308	Acupuncture—academic designations .....	134
44	H.B. 3312	Rental vehicles—parking citation .....	134
45	H.B. 3610	Public buildings—operation and maintenance rules .....	135
46	H.B. 3729	Drivers licenses—facsimile .....	136
47	S.B. 3064	Appropriations—Hamakua medical services .....	137
48	S.B. 2151	Microorganism—importation permit .....	137
49	S.B. 2404	Income tax—individual housing accounts .....	139
50	H.B. 2	Military reserves—tuition waivers .....	140
51	S.B. 2434	Appropriations—corrections overtime .....	142
52	S.B. 3010	Appropriations—Hilo and Maui Memorial hospitals .....	143
53	H.B. 1649	Adult foster homes—criminal history checks .....	144
54	H.B. 2177	Fishing—nets .....	146
55	H.B. 2274	Hawaii visitors bureau—contract; annual report .....	147
56	H.B. 3180	Personnel services department—name change .....	148
57	H.B. 3329	Libraries—concessions, income .....	158
58	S.B. 2041	Mental health—psychologist emergency examination .....	159
59	S.B. 2923	Petroleum shortage—aviation fuel .....	162
60	H.B. 3160	Appropriations—foster care payments .....	164
61	H.B. 3133	Appropriations—claims against the State .....	164
62	S.B. 905	Airports—rates, rentals, fees, charges .....	168
63	H.B. 1241	Appropriations—collective bargaining units 3, 4, 13; excluded employees .....	170
64	H.B. 1609	Appropriations—collective bargaining unit 1 .....	175
65	H.B. 1615	Appropriations—collective bargaining unit 7 .....	176
66	H.B. 1618	Appropriations—collective bargaining unit 10 .....	177
67	H.B. 1046	Tourism—marketing plans .....	178
68	H.B. 1731	Real estate brokers and salespersons—continuing education .....	179
69	H.B. 2075	Hawaiian fishponds—leasing .....	180
70	H.B. 2186	Motor vehicles—certificate of ownership transfer .....	181
71	H.B. 2238	Naturopaths—scope of practice .....	182
72	H.B. 2285	Motor vehicles—fraudulent license plates .....	183
73	H.B. 2309	Motor vehicles—traffic abstract fee .....	183
74	H.B. 2322	Attorneys fees—assumpsit .....	184
75	H.B. 2333	Convention center—extended .....	185
76	H.B. 2344	Hawaii revised statutes—republication .....	185
77	H.B. 2460	Condominiums—directors' expenses .....	186
78	H.B. 2461	Mortgages—release by title insurer or underwriter .....	188



ACT	BILL	SUBJECT	PAGE
79	H.B. 2490	Prescription drugs—out of state prescriptions .....	190
80	H.B. 2599	Public utilities—telephone service .....	190
81	H.B. 2622	Kalapana volcanic eruptions—displaced persons .....	193
82	S.B. 2098	Educational officers—salaries and classification review .....	193
83	S.B. 2366	Use tax law—exemption .....	194
84	S.B. 2563	Unpaid wages—interest awardable .....	194
85	S.B. 2591	Income tax credit—\$1 .....	195
86	S.B. 2605	Disaster relief—housing .....	196
87	S.B. 2623	Community college conference center revolving fund .....	198
88	S.B. 2630	Discrimination—relationship with person with disability .....	198
89	S.B. 2653	Liquor tax—rates, sunset .....	201
90	S.B. 2663	Torts—hotelkeepers' liability .....	202
91	S.B. 2722	Time sharing—registration, prohibited practices .....	203
92	S.B. 2752	Labor and industrial relations appeal board .....	206
93	S.B. 2781	Civil service exemptions—law clerks .....	208
94	S.B. 2787	Motor vehicles—point system .....	211
95	S.B. 2829	Elections—campaigning within polling place perimeter .....	213
96	H.B. 2631	State planning—telecommunications, transportation, energy .....	214
97	H.B. 2882	University of Hawaii—research corporation, contracts .....	217
98	H.B. 2909	Sales—going out of business sales .....	217
99	H.B. 2925	Prepaid health care act—sunset repealed .....	219
100	H.B. 2944	Real estate brokers and salespersons—licensing .....	220
101	H.B. 2965	Water code—review commission .....	227
102	H.B. 2975	Probation records—release .....	228
103	H.B. 2989	Circuit courts—Kalawao district .....	229
104	H.B. 3090	Cigarette and tobacco tax—amendments .....	230
105	H.B. 3137	Child support enforcement—hearings office .....	231
106	H.B. 3147	Housing special funds—special fund exemptions .....	238
107	H.B. 3149	Financial institutions code—amendments .....	238
108	H.B. 3151	Employees retirement system—death benefits .....	249
109	H.B. 3152	Hawaiian home lands—appraisal process .....	251
110	H.B. 3157	Nursing home without walls program—reports .....	254
111	H.B. 3165	Insurance—mental health, alcohol, and substance abuse treatment .....	254
112	H.B. 3169	Employment security—worker profiling system .....	256
113	H.B. 3170	Impounded vessels—sale .....	262
114	H.B. 3176	Public lands—industrial leases .....	263
115	H.B. 3190	Tax department—disclosure of written opinions .....	264
116	H.B. 3191	General excise tax—employee benefit plan rental income .....	268
117	H.B. 3195	Impounded vessels—administrative hearing .....	270
118	H.B. 3199	Outdoor advertising—stadiums .....	270
119	H.B. 3201	Elections—voter registration .....	272
120	H.B. 3255	Motor vehicles—solar electric vehicles .....	274
121	H.B. 3302	Public agency boards—video conference meetings .....	277

ACT	BILL	SUBJECT	PAGE
122	H.B. 3306	Detectives and guards—licensing .....	278
123	H.B. 3307	Optometry—licensing .....	281
124	H.B. 3309	Professional and vocational licensing—photograph .....	283
125	H.B. 3310	Psychologists—licensing and training .....	285
126	H.B. 3321	Councils on rehabilitation, independent living .....	289
127	H.B. 3416	Insurance—charitable gift annuities.....	291
128	H.B. 3428	Insurance—amendments .....	292
129	H.B. 3433	Hawaiian home lands—claims review panel opinions .....	298
130	H.B. 3443	Occupational health and safety .....	298
131	H.B. 3468	Corrections—correctional program revolving fund .....	300
132	H.B. 3484	Contractors—education and recovery funds .....	300
133	H.B. 3585	Public utilities—electric transmission lines .....	302
134	H.B. 3742	Education—young scholars program, extension.....	303
135	S.B. 2834	Civil service—nutrition program staff .....	305
136	S.B. 2921	Hawaii community development authority—special fund .....	306
137	S.B. 2924	Aloha tower fund—exemptions .....	307
138	S.B. 2925	Employees retirement system—county special fund .....	309
139	S.B. 2949	Civil rights commission—disclosure .....	310
140	S.B. 2954	Wildland fire protection—administration, penalties .....	311
141	S.B. 2964	General excise tax—interstate commerce .....	317
142	S.B. 2965	Generation-skipping transfer tax .....	326
143	S.B. 3024	Health care providers to inmates—defense of .....	332
144	S.B. 3044	Milk control act—amendments.....	332
145	S.B. 3075	Health insurance—dependent child of employee.....	334
146	S.B. 3322	Hawaii air carriers—regulation.....	335
147	H.B. 2005	Rental housing trust fund—amendments .....	336
148	H.B. 2945	Special purpose revenue bonds—electric companies .....	338
149	H.B. 3140	Hawaii community development authority—bonds.....	340
150	H.B. 3144	Appropriations—collective bargaining excluded employees.....	341
151	H.B. 3198	University intercollegiate athletics revolving funds .....	342
152	H.B. 3333	Hawaiian home lands—Panaewa repairs .....	343
153	H.B. 3461	Corrections—mental health services.....	345
154	H.B. 3463	Defense facilities—after-hours security .....	347
155	H.B. 3465	Corrections population management commission .....	349
156	H.B. 3466	Paroling authority—salaries.....	350
157	H.B. 3473	Criminal injuries compensation—awards .....	351
158	H.B. 3676	Special purpose revenue bonds—Queen’s health system.....	351
159	S.B. 2272	Appropriation—Molokai irrigation system.....	353
160	S.B. 2753	Taxation—real property title insurance .....	353
161	S.B. 3012	Kahoolawe—rehabilitation trust fund, appropriations .....	355
162	S.B. 3161	Public lands—leases.....	358
163	S.B. 3292	Airports—taxi service plan .....	362
164	H.B. 929	Limitation of actions—real property improvements .....	363
165	H.B. 1332	Maluhia wait-list demonstration project .....	364
166	H.B. 1590	Civil service commission—appeals .....	367
167	H.B. 1627	Elections—campaign fund.....	368
168	H.B. 1999	Building code—energy efficiency standards .....	369

ACT	BILL	SUBJECT	PAGE
169	H.B. 2027	Environmental health program and education fund .....	370
170	H.B. 2197	Motor vehicles—interisland shipping .....	372
171	H.B. 2294	Counties—nuisances .....	373
172	H.B. 2491	Prescription drugs—required information.....	378
173	H.B. 2553	Emergency medical services—comfort care only.....	380
174	H.B. 2605	Intoxicating liquors—brewpubs .....	381
175	H.B. 2623	Public lands—lease extensions .....	385
176	H.B. 2635	Public utilities—non-utility generators .....	386
177	H.B. 2680	Kapolei—land exchange .....	387
178	H.B. 2725	Criminal forfeiture act—amendments.....	388
179	H.B. 2897	Natural energy laboratory of Hawaii—special fund .....	392
180	H.B. 2928	Fireworks—regulation.....	394
181	H.B. 2981	Bail—district court powers .....	399
182	H.B. 2985	Penal code—abuse of family or household members .....	400
183	H.B. 3209	Dental hygienists—regulation .....	401
184	H.B. 3210	Nursing home administrators—regulation .....	404
185	H.B. 3211	Nurse aides—regulation.....	407
186	H.B. 3300	Procurement code—amendments .....	409
187	H.B. 3323	Public assistance—amendments.....	432
188	H.B. 3326	Community hospitals—autonomous operation project.....	438
189	H.B. 3332	Post-secondary education commission.....	440
190	H.B. 3426	Insurance—amendments .....	442
191	H.B. 3431	Public utilities—consumer advocate .....	466
192	H.B. 3456	Hospitals—financial operations .....	466
193	H.B. 3458	Hospitals—chief procurement officer.....	469
194	H.B. 3464	Correctional industries—advisory committee.....	470
195	H.B. 3470	Corrections—release of pretrial detainees .....	471
196	H.B. 3472	Employees retirement system—public safety investigators .....	472
197	H.B. 3491	Motor vehicles—proof of financial responsibility .....	476
198	H.B. 3506	Appropriations—No Hope in Dope .....	477
199	H.B. 3607	Fuel distribution—ethanol production .....	477
200	H.B. 3630	Hawaiian sovereignty—plebiscite.....	479
201	S.B. 2170	Glass recovery program .....	483
202	S.B. 2172	Clean Hawaii center .....	487
203	S.B. 2180	Underground storage tanks .....	493
204	S.B. 2393	Firearms—amendments.....	494
205	S.B. 2863	Environment—drinking water contamination .....	501
206	S.B. 2880	Land court—encumbrances.....	503
207	S.B. 2956	Tree farms—harvesting; management plans.....	504
208	S.B. 3015	Corrections—transfer of prisoner out of state.....	506
209	S.B. 3180	Utility rate increase—fuel supply loss .....	506
210	S.B. 3303	Environment—solid waste disposal .....	509
211	S.B. 3309	Public lands—Hamakua and Hilo coast.....	511
212	H.B. 759	Employees retirement system—early retirement incentive.....	514
213	H.B. 1088	Torts—government entities.....	516
214	H.B. 1317	Real property—seller’s disclosures.....	517
215	H.B. 1712	Electricians—licensing.....	523

ACT	BILL	SUBJECT	PAGE
216	H.B. 2071	Special purpose revenue bonds—Pohai Nani care center .....	525
217	H.B. 2312	Marriage licenses—male-female couples .....	526
218	H.B. 2690	Agricultural parks—lease rent .....	532
219	H.B. 2746	Special purpose revenue bonds—ethanol production plant.....	534
220	H.B. 3017	Motor vehicle insurance—treatment claims .....	535
221	H.B. 3132	Trust fund for nonpresentment of state checks .....	536
222	H.B. 3135	Appropriations—juvenile justice information.....	537
223	H.B. 3179	Civil service—recruitment flexibility .....	538
224	H.B. 3303	Used motor vehicles—dealer’s written warranty.....	542
225	H.B. 3427	Motor vehicle insurance—joint underwriting plan .....	548
226	H.B. 3451	Public utilities commission—special fund .....	551
227	H.B. 3520	Intoxicating liquors—public hearings.....	554
228	H.B. 3600	Hilo-Hamakua region—housing loans and grants .....	555
229	S.B. 495	Sentencing—drug offenses .....	557
230	S.B. 576	Hospital tax—elimination .....	558
231	S.B. 1628	Appropriations—Hawaii Kai marina dredging .....	567
232	S.B. 2141	Spouse and child abuse special account.....	568
233	S.B. 2161	Appropriations—household hazardous waste .....	571
234	S.B. 2162	Air pollution—indoor air quality program.....	572
235	S.B. 2728	Appropriations—agricultural research and extension .....	574
236	S.B. 2837	Historic preservation—schools .....	575
237	S.B. 2875	Appropriations—ambulance service .....	576
238	S.B. 2908	Health—qualified health centers.....	576
239	S.B. 2979	University laboratory school summer programs .....	577
240	S.B. 3254	Appropriations—Samoan Flag Day .....	578
241	S.B. 3307	Appropriations—Hamakua community development district.....	578
242	S.B. 2615	Emergency medical service system for children.....	580
243	H.B. 2949	Children’s day .....	583
244	H.B. 2219	Children—missing children reports .....	583
245	H.B. 2220	Penal code—custodial interference .....	584
246	H.B. 2221	Children—missing children clearinghouse .....	585
247	H.B. 2190	Child support enforcement—attorneys fees .....	588
248	S.B. 2288	Landlord-tenant code—transitional facilities .....	589
249	H.B. 2921	Equine activities .....	590
250	H.B. 2449	Torts—donations to needy .....	592
251	S.B. 2377	Social worker licensing program .....	594
252	H.B. 2500	State budget—supplemental.....	598
253	H.B. 2780	Hawaiian affairs—budget .....	774
254	H.B. 2990	Judiciary—budget .....	778
255	H.B. 3055	University of Hawaii—veterans’ tuition waivers.....	782
256	S.B. 2378	General obligation bonds—authorization .....	783
257	S.B. 2889	Armed forces—civil liabilities .....	789
258	H.B. 65	Housing—veterans; Queen Emma Gardens .....	803
259	H.B. 2730	Legislature—public access.....	805
260	H.B. 3716	Counties—joint hearings on permits.....	807
261	H.B. 2912	Housing construction permit review—extension .....	808
262	H.B. 2913	Counties—development permits .....	809

ACT	BILL	SUBJECT	PAGE
263	H.B. 2284	State functions—new programs .....	810
264	S.B. 3045	Agribusiness development corporation .....	810
265	H.B. 3164	Infected health care workers advisory committee.....	825
266	H.B. 3327	Community hospitals—agency .....	826
267	H.B. 2640	Environment—hazardous waste brokers.....	829
268	H.B. 2641	Air pollution—amendments.....	831
269	H.B. 2642	Water pollution—administrative penalties.....	833
270	H.B. 3445	Conservation districts—regulation.....	834
271	H.B. 3446	Fishing—subsistence fishing areas .....	837
272	H.B. 3657	Education—amendments.....	839
273	S.B. 2402	Motor vehicles—parking at T-shaped intersections.....	857
274	H.B. 2235	General excise tax—credit union purchases .....	858
275	S.B. 475	Employees retirement system—pensioners bonus .....	859
276	H.B. 2515	Employees retirement system—amendments.....	860
277	H.B. 3212	Nursing—advanced practice registered nurses; sunset .....	866
278	S.B. 1249	Nurses—prescriptive authority .....	869
279	H.B. 3513	Auditor—oversight functions.....	869
280	H.B. 2692	Proposed constitutional amendment—special purpose revenue bonds.....	875
281	H.B. 3447	University of Hawaii—budget flexibility .....	887
282	S.B. 2183	District court judges—appointment .....	892
283	S.B. 2261	Hawaiian affairs—revenue bonds .....	892
	S.B. 2182	Proposed constitutional amendment—district court judges .....	901
	S.B. 2294	Proposed constitutional amendment—judicial vacancies .....	902
	S.B. 2513	Proposed constitutional amendment—judicial selection commission, terms.....	904
	S.B. 2515	Proposed constitutional amendment—judicial selection commission, members.....	905

**Session Laws of Hawaii  
Passed By The  
Seventeenth State Legislature  
Special Session  
1993**

**ACT 1**

H.B. NO. S1-93

A Bill for an Act Relating to State Bonds.

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

SECTION 1. Act 344, Session Laws of Hawaii 1993, is amended by amending section 1 to read as follows:

“SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, section 13, of the State Constitution which states: “Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance,” the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the State is set forth in Article VII, section 13, of the State Constitution, which states in part: “General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance.” Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including “reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year” and “bonds

constituting instruments of indebtedness under which the State or any political subdivision incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under this section.”

- (2) Actual and estimated debt limits. The limit on principal and interest on general obligation bonds issued by the State, actual for fiscal year 1992-1993 and estimated for each fiscal year from 1993-1994 to 1996-1997, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1989-90	\$2,418,273,831	
1990-91	2,654,706,036	
1991-92	2,672,238,596	
1992-93	2,773,716,000	\$477,621,805
1993-94	2,779,671,000	499,540,739
1994-95	2,910,923,000	507,246,912
1995-96	3,099,945,000	521,965,783
1996-97	(Not Applicable)	542,083,238

For fiscal years 1992-93, 1993-94, 1994-95, 1995-96, and 1996-97 respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half percent. The net general fund revenues for fiscal years 1989-90, 1990-91, and 1991-1992 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1992, dated December 1, 1992. The net general fund revenues for fiscal years 1992-93 to 1995-96 are estimates, based on general fund revenue estimates made as of April 15, 1993, by the council on revenues, the body assigned by Article VII, section 7, of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by Article VII, section 13, of the State Constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of [March] July 1, 1993, is as follows for fiscal year 1993-94 to fiscal year 1999-2000:

Fiscal Year	Principal and Interest	
1993-94	[\$300,563,903]	<u>\$285,166,913</u>
1994-95	[305,191,838]	<u>317,338,889</u>
1995-96	[341,582,157]	<u>361,199,046</u>
1996-97	[311,408,865]	<u>326,344,538</u>
1997-98	[301,461,742]	<u>299,295,544</u>

1998-99	[270,457,448]	<u>269,080,899</u>
1999-2000	[261,792,602]	<u>264,411,466</u>

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2000-2001 to fiscal year 2012-13 when the final installment of [\$18,275,000] \$25,889,838 shall be due and payable. (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$210,000,000 (including \$8,000,000 authorized in [House Bill No. 1975, H.D. 2, S.D. 1, C.D. 3, Relating to Governmental Assistance, which was passed by the 1993 session of the legislature,] Act 85, Session Laws of Hawaii 1993, Relating to Governmental Assistance), part of which is excludable in determining the power to the State to issue general obligation bonds, pursuant to Article VII, section 13, of the State Constitution.

- (4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds and guaranties. (A) As calculated from the state comptroller's bond fund report as of March 31, 1993, adjusted for (1) appropriations to be funded by general obligation bonds as provided in Act 35, Session Laws of Hawaii 1993, in the amount of \$136,500,000; (2) lapses as provided in [House Bill No. 1152, H.D. 1, S.D. 1, C.D. 1] Act 289, Session Laws of Hawaii 1993 (the General Appropriations Act of 1993) amounting to \$6,526,821; [and] (3) lapses as provided in [House Bill No. 203, H.D. 1, S.D. 2, C.D. 1] Act 277, Session Laws of Hawaii 1993 (the Judiciary Appropriations Act of 1993) amounting to \$38,387,000, and (4) the issuance of \$130,245,000 general obligation bonds of 1993, Series BE, the total amount of authorized but unissued general obligation bonds is [\$477,315,798.] \$347,070,798. The total amount of general obligation bonds authorized by this Act is [\$999,646,798] \$1,049,646,798 (including the change in means of financing from general fund to general obligation bond fund as provided in [House Bill No. 1152, H.D. 1, S.D. 1, C.D. 1,] Act 289, Session Laws of Hawaii 1993, the General Appropriations Act of 1993, amounting to \$86,562,798). The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized by this Act is [\$1,476,962,596.] \$1,396,717,596. (B) As reported by the department of budget and finance the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$210,000,000, part of which is excludable in determining the power to the State to issue general obligation bonds, pursuant to Article VII, section 13, of the State Constitution. The total amount of guaranty authorized by [House Bill No. 173, H.D. 3, S.D. 1, C.D. 1] Act 332, Session Laws of Hawaii 1993 (Relating to Transportation) is [\$20,000,000,] \$12,600,000, and is herein validated. The total amount of guaranties previously authorized and the guaranties validated by this Act is [\$230,000,000.] \$222,600,000.
- (5) Proposed general obligation bond issuance. As reported herein for fiscal years 1992-93, 1993-94, 1994-95, 1995-96, and 1996-97 the



State proposes to issue [~~\$135,600,000~~ during the remainder of fiscal year 1992-93,] ~~\$350,000,000~~ during the first half of fiscal year 1993-94, [~~\$144,000,000~~] \$237,500,000 during the second half of fiscal year 1993-94, and ~~\$100,000,000~~ in each half of fiscal year 1994-95, [~~\$220,000,000~~] \$200,000,000 during the first half of fiscal year 1995-96, [~~\$100,000,000~~] \$212,500,000 during the second half of fiscal year 1995-96, [~~\$236,000,000~~ during the first half of fiscal year 1996-97,] and ~~\$100,000,000~~ [during the second] in each half of fiscal year 1996-97. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal, and interest payments commencing six months from the date of issuance and being paid semiannually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.

- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the fiscal years 1992-93 to 1995-96 is [~~\$1,150,500,000.~~] \$1,200,000,000. An additional [~~\$336,000,000~~] \$200,000,000 is proposed to be issued in fiscal year 1996-97. The total amount of [~~\$1,150,500,000~~] \$1,200,000,000 which is proposed to be issued through fiscal year 1995-96 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is [~~\$1,476,962,596.~~] \$1,396,717,596, as reported in paragraph (4), except for [~~\$326,462,596.~~] \$196,717,596. It is assumed that the appropriations to which an additional [~~\$326,462,596~~] \$196,717,596 in bond issuance needs to be applied will have been encumbered as of June 30, 1996. The [~~\$336,000,000~~] \$200,000,000 which is proposed to be issued in fiscal year 1996-97 will be sufficient to meet the requirements of the June 30, 1996, encumbrances in the amount of [~~\$326,462,596.~~] \$196,717,596. The amount of assumed encumbrances as of June 30, 1996, is reasonable and conservative. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1996, and the amount of June 30, 1996 encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1996-97, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.
- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds.
- (A) General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:
- (i) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds

- (ii) from a particular bond issue; and  
 [While at the present time, all of the special funds which are required to make reimbursements to the general fund on bonds issued are in a condition to qualify all of the reimbursable bonds for exclusion, it cannot be stated with certainty that such a condition will continue.] Not all reimbursable bonds may qualify for exclusion.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the department of budget and finance, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is [8.4] 8.7 percent for the ten years from fiscal year 1993-94 to fiscal year 2002-2003. For the purpose of this declaration, the assumption is made that five percent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative [except for \$136,500,000 proposed issuance during the remainder of fiscal year 1992-93, none of which is excluded]. (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of this paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under Article VII, section 13, of the State Constitution for the fiscal years 1993-94, 1994-95, 1995-96, and 1996-97 are as follows:

Fiscal Year	Total Amount of General Obligation Bonds Not Otherwise Excluded by Article VII, Section 13, of the State Constitution	
1993-94	[\$2,854,080,933]	\$2,947,712,065
1994-95	[2,865,094,970]	<u>2,949,933,228</u>
1995-96	[2,922,183,174]	<u>3,087,163,098</u>
1996-97	[2,998,812,186]	<u>3,025,309,239</u>

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven percent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided by, can be excluded in determining the power of the State to issue general obligation

bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to an actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to Article VII, section 13, of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on such assumptions and on the determination in paragraph (8), the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which must be included in determining the power of the State to issue general obligation bonds is [\$26,297,003.] \$12,427,666.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of [7.0 percent with respect to general obligation bonds issued during the remainder of fiscal year 1992-93 and] 7.5 percent [on the general obligation bonds issued thereafter], it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such issuance:

Time of Issuance and Amount to be Counted Against Debt Limit		Debt Limit at Time of Issuance	[Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties
Remainder FY 1992-93	\$136,500,000	\$477,621,805	\$385,019,160 (FY 1995-96)
1st half FY 1993-94	\$332,500,000	499,540,736	409,956,660 (FY 1995-96)
2nd half FY 1993-94	\$136,800,000	499,540,736	420,216,660 (FY 1995-96)
1st half FY 1994-95	\$95,000,000	507,246,912	427,341,660 (FY 1995-96)
2nd half FY 1994-95	\$95,000,000	507,246,912	434,466,660 (FY 1995-96)
1st half FY 1995-96	\$209,000,000	521,965,783	444,822,734 (FY 1996-97)
2nd half FY 1995-96	\$95,000,000	521,965,783	451,947,734 (FY 1996-97)

1st half FY 1996-97	\$224,200,000	542,083,238	466,694,717 (FY 1997-98)
2nd half FY 1996-97	\$95,000,000]	542,083,238	473,819,717 (FY 1997-98)

<u>Time of Issuance and Amount to be Counted Against Debt Limit</u>	<u>Debt Limit at Time of Issuance</u>	<u>Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties</u>
<u>1st half FY 1993-94 \$332,500,000</u>	<u>499,540,736</u>	<u>398,564,212 (FY 1995-96)</u>
<u>2nd half FY 1993-94 \$225,625,000</u>	<u>499,540,736</u>	<u>415,486,087 (FY 1995-96)</u>
<u>1st half FY 1994-95 \$95,000,000</u>	<u>507,246,912</u>	<u>422,611,087 (FY 1995-96)</u>
<u>2nd half FY 1994-95 \$95,000,000</u>	<u>507,246,912</u>	<u>429,736,087 (FY 1995-96)</u>
<u>1st half FY 1995-96 \$190,000,000</u>	<u>521,965,783</u>	<u>439,451,618 (FY 1996-97)</u>
<u>2nd half FY 1995-96 \$201,875,000</u>	<u>521,965,783</u>	<u>454,592,243 (FY 1996-97)</u>
<u>1st half FY 1996-97 \$95,000,000</u>	<u>542,083,238</u>	<u>442,708,200 (FY 1997-98)</u>
<u>2nd half FY 1996-97 \$95,000,000</u>	<u>542,083,238</u>	<u>449,833,200 (FY 1997-98)</u>

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act and for all bonds authorized and unissued and calculated for all bonds issued and outstanding and guaranties, will not cause the debt limit to be exceeded at the time of issuance.”

SECTION 2. Act 344, Session Laws of Hawaii 1993, is amended by amending section 3 to read as follows:

“SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in [House Bill No. 1152, H.D.1, S.D. 1, C.D. 1] Act 289, Session Laws of Hawaii 1993 (the General Appropriations Act of 1993), [House Bill No. 203, H.D. 1, S.D. 2, C.D. 1] Act 277, Session Laws of Hawaii 1993 (the Judiciary Appropriations Act of 1993), [House Bill

No. 1890, H.D. 1, S.D. 1, C.D. 1] Act 339, Session Laws of Hawaii 1993 (Relating to Laws Affecting Insurance), [and House Bill No. 1202, H.D. 2, S.D. 2, C.D. 1 (Relating to a Convention Center)] and Act 364, Session Laws of Hawaii 1993 (Relating to Education) passed by [this] the regular session of 1993 and approved by the governor, and House Bill No. S4-93 (Relating to a Convention Center) passed by this special session of 1993, and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed [\$999,646,798.] \$1,049,646,798.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-16, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law."

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

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

(Approved September 1, 1993.)

ACT 2

H.B. NO. S2-93

A Bill for an Act Relating to the Special Fund Appropriation for Highways Administration.

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

SECTION 1. Act 289, Session Laws of Hawaii 1993, is amended by amending section 30 to read as follows:

"SECTION 30. Provided that of the special fund appropriation for highways administration (TRN 595), the sum of \$65,721,000 for the fiscal biennium 1993-1995 shall be used for only the following [purpose:] purposes:

<u>Purpose</u>	<u>FY 1993-1994</u>	<u>FY 1994-1995</u>
<u>Interest and Principal on General Obligation Bonds</u>	<u>\$29,671,000</u>	<u>\$29,450,000</u>
Interest and Principal on Revenue Bonds	[\$31,571,000 <u>\$ 1,900,000</u> ]	\$34,150,000] <u>\$ 4,700,000</u>

provided further that the funds shall not be transferred for any other purpose; [and] provided further that the department shall prepare a detailed report of all expenditures as of December 31 and June 30 for each fiscal year; and provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 1994 and 1995 regular sessions."

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

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

(Approved September 1, 1993.)

**ACT 3**

H.B. NO. S3-93

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

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

**PART I**

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 11:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$ 1,010	\$ 1,685
Special Funds	\$498,292	\$600,191

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance in the respective fiscal year for the purposes of this part.

**PART II**

SECTION 3. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be from the respective funds.

SECTION 4. Funds appropriated or authorized by this Act which are not expended or encumbered by June 30, 1994, and June 30, 1995, of the respective fiscal years, shall lapse as of those dates.

SECTION 5. This Act, upon its approval, shall take effect retroactive to July 1, 1993.

(Approved September 1, 1993.)

**ACT 4**

H.B. NO. S6-93

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

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

SECTION 1. Article 10C of chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§431:10C- Limit on nonrenewals and conditional renewals. (a)**

The total number (rounded to the nearest whole number) of notices of intention not to renew a motor vehicle insurance policy, and of notices of intention to conditionally renew upon reduction of limits of any coverage, which an insurer may issue, shall be limited for each calendar year to two per cent of the total number of covered policies of the insurer in force at last year-end in each of the insurer's rating territories in use in this State that have completed their required policy periods. However, the insurer may non-renew or conditionally renew one policy in any of the insurer's rating territories in use in this State if the applicable percentage limitation results in less than one policy. Cancellations, notices of intention not to renew, and notice of intention to conditionally renew made pursuant to section 431:10C-111 (a)(1) and (a)(2), and section 431:10C-111(e) shall be independent of and in addition to those permitted under this subsection.

(b) For every two new automobile policies that the insurer voluntarily writes in each rating territory, the insurer shall be permitted to non-renew or conditionally renew one additional automobile policy in that territory in excess of the two per cent limit established in subsection (a) of this section, subject to a fair and nondiscriminatory formula developed by the commissioner that shall consider the number of automobile policies written less cancellations initiated by the insurer within the first sixty days of the policy period.”

SECTION 2. Section 431:10C-110, Hawaii Revised Statutes, is amended to read as follows:

**“§431:10C-110 [Application for coverage, restriction against rejection of and grounds for rejection.** An insurer authorized to issue a no-fault policy, including a general agent, subagent or solicitor, may not reject an application for a no-fault policy or optional additional insurance which insurers are required to make available, covering a motor vehicle, unless:

- (1) The principal operator of the vehicle does not have a license which permits operation of the vehicle; or
- (2) The application is not accompanied by at least six months<sup>1</sup> premium for the coverage. Nothing in this paragraph shall prohibit an insurer, at its discretion, from accepting a minimum of two months' premium and issuing a policy; provided that a temporary no-fault identification card may not be issued for a period exceeding the period for which premiums have been paid or earned. A no-fault identification card in compliance with section 431:10C-107 shall be issued by the insurer once any outstanding balance for the policy is paid. This paragraph shall apply only to the first application of a person for a no-fault policy and shall not apply to applications for commercial and fleet vehicles.]

**Rejection of application, JUP placement. A general agent, including a branch office of a foreign or alien insurer, subagent, or solicitor upon rejection of an application for a no-fault policy or optional additional insurance shall immediately offer, subject to the guidelines established by rules of the commissioner, to place the requested insurance coverages with the joint underwriting plan.”**

SECTION 3. Section 431:10C-111, Hawaii Revised Statutes, is amended to read as follows:

**“§431:10C-111 [Rejection of applications, cancellation,] Cancellation and nonrenewal of policies: when prohibited, when permitted. (a) An insurer**

may not cancel or refuse to renew a no-fault policy, including required optional additional insurance meeting the provisions of section 431:10C-302, once issued except when:

- (1) The license of the principal operator to operate the type of motor vehicle is suspended or revoked; [or]
- (2) Premium payments for the policy are not made after reasonable demand therefor[.]; or
- (3) The nonrenewal or conditional renewal is limited in accordance with section 431:10C-\_\_\_\_\_.

(b) An insurer may refuse to renew optional additional coverage in excess of that which the insurer is required to make available to the insured under section 431:10C-302 where the insured is a member of a class set forth in section 431:10C-407(b)(1)(A) or (B) at the time of the refusal to renew.

(c) No insurer shall refuse to continue a no-fault policy based solely upon a person's race, creed, ethnic extraction, age, sex, length of driving experience, marital status, residence, physical handicap, or because an insured has elected to obtain any required or optional coverage or deductible required by law. If an insured alleges that the insurer's refusal to continue the no-fault policy is based solely upon the insured's race, creed, ethnic extraction, age, sex, length of driving experience, marital status, residence, physical handicap, or because the insured has elected any required or optional coverage or deductible provided by law, the burden of proof shall rest with the insurer to prove that the refusal to continue the policy was not based on noncompliance with this subsection.

(d) 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 occurs first.

[(d)] (e) An insurer may [reject or refuse to accept additional applications for, or] also refuse to renew no-fault policies:

- (1) If the commissioner determines that the financial soundness of the insurer would be impaired by the writing of additional policies of insurance; or
- (2) The insurer ceases to write any new policies of insurance of any kind in this State.

[(e)] (f) Within fifteen days of a cancellation and the return of the no-fault card or a signed affidavit stating the card was lost or stolen, the insurer shall refund the pro rata unearned portion, if any, of any prepaid premiums. Premiums shall be considered "earned" as provided in section 431:10C-109."

SECTION 4. Section 431:10C-117, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) (1) Any person subject to this article in the capacity of the operator, owner, or registrant of a motor vehicle in this State, or registered in this State, who violates any applicable provision of this article, shall be subject to citation for the violation by any county police department in a form and manner approved by the violations bureau of the district court of the first circuit.
- (2) Notwithstanding any provision of the Hawaii Penal Code[.];
  - (A) [each] Each violation shall be deemed a separate offense and shall be subject to a fine of not less than \$100 nor more than \$5,000 which shall not be suspended[; provided that] except as provided in subparagraph (B):



- (B) [if] If the person is convicted of not having had a no-fault policy in effect at the time the citation was issued, the fine shall be [\$1,000] \$500 for the first offense and a minimum of [\$3,000] \$1,500 for each subsequent offense; provided that the judge shall have the discretion to suspend the fine for the first offense; provided [however,] further that upon the defendant's request, the judge may grant community service in lieu of the fine, of not less than 75 hours and not more than 100 hours for the first offense, and not less than 200 hours nor more than 275 hours for the second offense; and provided further that the judge may grant community service in lieu of the fine for subsequent offenses at the judge's discretion.
- (3) In addition to the fine in this paragraph, if any person operates a motor vehicle without a valid no-fault policy in effect insuring the driver or registered owner, or both, either the driver's license of the driver and of the registered owner shall be suspended for three months or they shall be required to maintain proof of financial responsibility pursuant to section 287-21(2), (3), or (4) and keep a nonrefundable no-fault insurance policy in force for six months; provided that if the violation is a subsequent offense of driving without a valid no-fault policy, the driver's licenses of the driver and the registered owner shall be suspended for one year; and provided further that any person cited under this section shall have an opportunity to present a good faith defense, including but not limited to lack of knowledge or proof of insurance. The general penalty provision of this section shall not apply to:
- (A) Any operator of a motor vehicle owned by another person if the operator's own insurance covers such driving; or
- (B) Any operator of a motor vehicle owned by that person's employer during the normal scope of that person's employment; or
- (C) Any operator of a borrowed motor vehicle if the operator holds a reasonable belief that the subject vehicle is insured.
- [(3)] (4) In the case of multiple violations, the court, in addition to any other penalty, shall impose the following penalties:
- (A) Imprisonment of not more than thirty days;
- (B) Suspension or revocation of the motor vehicle registration plates of the vehicle involved;
- (C) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle, or any other cost involved pursuant to section 431:10C-301; or
- (D) Any combination of those penalties."

SECTION 5. Section 431:10C-301, Hawaii Revised Statutes, is amended to read as follows:

**"§431:10C-301 Required motor vehicle policy coverage.** (a) In order to meet the requirements of a no-fault policy as provided in this article, an insurance policy covering a motor vehicle shall provide:

- (1) Coverage specified in section 431:10C-304; and
- (2) Insurance to pay on behalf of the owner or any operator of the insured motor vehicle using the motor vehicle with the express or

implied permission of the named insured, sums which the owner or operator may legally be obligated to pay for injury, death, or damage to property of others, except property owned by, being transported by, or in the charge of the insured, which arise out of the ownership, operation, maintenance, or use of the motor vehicle; provided that in the case of a U-drive motor vehicle, insurance to pay on behalf of the renter or any operator of the insured motor vehicle using the motor vehicle with the express permission of the renter or lessee, sums which the renter or operator may be legally obligated to pay for damage or destruction of property of others (except property owned by, being transported by, or in the charge of the renter or operator) arising out of the operation or use of the motor vehicle unless the motor vehicle is reported stolen by the owner within three days of notification of the incident; provided that the insurer and owner of a U-drive vehicle shall have the right of subrogation against the renter and operator for breach of the rental contract between owner and renter; and provided further that, in the event that any motor vehicle offered for rental or lease is involved in an accident, the lessor shall provide all information it has or obtains relevant to the accident to all other involved parties upon their request, including but not limited to information about the lessee, and the driver of the vehicle if other than the lessee.

(b) A motor vehicle insurance policy shall include:

- (1) Liability coverage of not less than \$25,000 for all damages arising out of accidental harm sustained by any one person as a result of any one accident applicable to each person sustaining accidental harm arising out of ownership, maintenance, use, loading, or unloading of the insured vehicle;
- (2) Liability coverage of not less than \$10,000 for all damages arising out of injury to or destruction of property including motor vehicles and including the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle;
- (3) With respect to any motor vehicle registered or principally garaged in this State, liability coverage provided therein or supplemental thereto, in limits for bodily injury or death<sup>1</sup>, under provisions filed with and approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom; provided, however, that the coverage required under this paragraph shall not be applicable where any named insured in the policy shall reject the coverage in writing; and
- (4) Coverage for loss resulting from bodily injury or death suffered by any person legally entitled to recover damages from owners or operators of underinsured motor vehicles. An insurer may offer the underinsured motorist coverage required by this paragraph in the same manner as uninsured motorist coverage; provided that such<sup>1</sup> offer of both shall:
  - (A) Be conspicuously displayed so as to be readily noticeable by the insured;

- (B) Set forth the premium for the coverage adjacent to the offer in such<sup>1</sup> a manner that the premium is clearly identifiable with the offer and may be easily subtracted from the total premium to determine the premium payment due in the event the insured elects not to purchase the option; and
- (C) Provide for written rejection of the coverage by requiring the insured to affix the insured's signature in a location adjacent to or directly below the offer.

(c) The stacking or aggregating of uninsured motorist coverage<sup>1</sup> or underinsured motorist coverage, whichever is applicable, is prohibited,<sup>1</sup> except as provided in subsection (d).<sup>1</sup> [However, an insurer shall offer an option to stack uninsured motorist<sup>1</sup> and underinsured motorist coverage, as applicable<sup>1</sup> in each no-fault policy whenever any policy is issued, delivered, or renewed.]

(d) An insurer shall offer [uninsured motorist coverage and underinsured motorist coverage of not less than the amount of the maximum bodily injury liability coverage in the insured's policy when the policy is first issued; provided that written rejection shall only be required when the policy is first issued or first renewed. No further rejections are required. Provided further that for] the insured the opportunity to purchase uninsured motorist coverage and underinsured motorist coverage by offering the following options with each no-fault policy:

- (1) The option to stack uninsured motorist coverage and underinsured motorist coverage; and
- (2) The option to select uninsured motorist coverage and underinsured motorist coverage, whichever is applicable, up to but not greater than the bodily injury liability coverage limits in the insured's policy.

These offers are to be made when a no-fault policy is first applied for or issued. For any existing policies,<sup>1</sup> an insurer shall offer such coverage at the first renewal after January 1, 1993. Once an insured has been provided the opportunity to purchase the coverages under the options, no further offer is required to be included with any renewal or replacement policy issued to the insured.

(e) If uninsured motorist coverage or underinsured motorist coverage is rejected, pursuant to section 431:10C-301(b):

- (1) The offers required by section 431:10C-301(d) are not required to be made;
- (2) No further offers or notice of the availability of uninsured motorist coverage and underinsured motorist coverage are required to be made in connection with any renewal or replacement policy; and
- (3) The written rejections required by section 431:10C-301(b) shall be presumptive evidence of the insured's decision to reject the options."

SECTION 6. Section 431:10C-308.7, Hawaii Revised Statutes, is amended to read as follows:

**"[§431:10C-308.7] Client-patient referrals, health care provider practices prohibited.** (a) An attorney or a law firm of which the attorney is a member or by which the attorney is employed may not establish a pattern of consistently referring clients to the same health care provider as a result of any accidental harm which is subject to benefits under this article, and a health care provider may not establish a pattern of consistently referring patients to the same attorney or law firm as a result of any accidental harm which is subject to benefits under this article. Any attorney, or any attorney from the law firm of which the

attorney is a member or by which the attorney is employed, and that health care provider engaged in such pattern shall be presumed to be in violation of this section.

As used in this [subsection] section, "law firm" means any sole proprietorship, partnership, corporation, or other entity having members or employees who engage in the practice of law in this State.

(b) No health care provider shall engage in, or agree or offer to engage in, fee splitting. For the purposes of this subsection, "fee splitting" means the payment, or acceptance of payment, by a health care provider, of any portion of a health care fee, or a commission, in return for the referral of a patient for any service or treatment for which no-fault benefits are provided under this chapter.

(c) No health care provider shall refer, for any service or treatment authorized under this chapter, a patient to any entity in which the referring provider has a financial interest unless the referring provider has disclosed that financial interest to the patient.

For the purposes of this section "financial interest" shall mean an ownership or investment interest through debt, equity, or any other means. "Financial interest" does not refer to salary or other compensation paid to physicians by a health maintenance organization, or any compensation arrangement involving payment by a group practice which contracts with a health maintenance organization to a physician in the same group practice or entity affiliated with the health maintenance organization for services provided to a member of the health maintenance organization.

(d) The health care provider shall make the disclosure required by this section in advance and in writing, and shall obtain the signature of the patient and retain the disclosure form for a period of two years. The health care provider shall include in the disclosure a statement indicating that the patient is free to choose a different health care provider.

(e) The regulated industries complaints office, department of commerce and consumer affairs, shall refer any attorney or health care provider in violation of this section to the appropriate professional licensing or regulatory body, for appropriate disciplinary action, including the suspension or revocation of the attorney's or health care provider's license to practice.

[(c)] (f) The regulated industries complaints office, department of commerce and consumer affairs, may initiate investigations to enforce this section and shall investigate any reports of attorney-health care provider referrals of persons eligible for benefits under this article that may violate this section.

(g) For the purposes of this section, the term "health care provider" means any person who is licensed to provide health care services pursuant to chapters 436E, 442, 448, 452, 453, 455, 457G, 459, 460, 461J, 463E, and 465."

SECTION 7. Section 431:10C-407, Hawaii Revised Statutes, is amended to read as follows:

**"§431:10C-407 Classifications.** (a) The commissioner shall establish classifications of eligible persons and uses for which the joint underwriting plan shall provide both the required no-fault policies and any optional additional insurance an eligible person or user applies for. The commissioner shall, by regulation, establish, implement, and supervise the joint underwriting plan, through the bureau, assuring that insurance for motor vehicles will be conveniently and expeditiously afforded, subject only to payment or provision for payment of the premium, to all applicants for insurance required by this part to provide insurance for payment of no-fault and [tort] bodily injury and property damage liability

insurance, or optional additional benefits, and who cannot reasonably obtain insurance at rates not in excess of those applicable to applicants under the plan, or who otherwise are in good faith entitled to, but unable to obtain the insurance through ordinary methods.

(b) The plan shall provide all no-fault benefits and services,<sup>1</sup> and [tort]<sup>1</sup> bodily injury and property damage<sup>1</sup> liability coverages to the limits and coverages specified in this article for all classes of persons, motor vehicles,<sup>1</sup> and motor vehicle uses specified in this article upon the payment of premiums as provided in subpart C, as follows:

- (1) The plan shall provide no-fault benefits and policies for each of the following classes, and each class shall be able to secure a no-fault and [tort]<sup>1</sup> bodily injury and property damage<sup>1</sup> liability policy through the plan:
  - (A) All motor vehicles owned by licensed assigned risk drivers as the commissioner, by rules, shall define. The commissioner shall regulate the class in accordance with the general practice of the industry, the applicable results, if any, of the commissioner's examination of the motor vehicle insurers' business records and experience, and any applicable and scientifically credible governmental or academic studies of the multi-accident or high-risk automobile driver.
  - (B) All motor vehicles owned by licensed drivers convicted within the thirty-six months immediately preceding the date of application, in any jurisdiction of any one or more of the offenses of, or of the offenses cognate to:
    - (i) Heedless and careless driving;
    - (ii) Driving while license suspended or revoked;
    - (iii) Leaving the scene of an accident;
    - (iv) Manslaughter, if resulting from the operation of a motor vehicle; or
    - (v) Driving under the influence of an intoxicating liquor as provided in section 291-4 or any drug, except marijuana, as provided in section 291-7.
  - (C) All commercial uses, first class, defined as any commercial use engaged in the transport of passengers for hire or gratuity.
  - (D) All commercial uses, second class, defined as any commercial, business, or institutional use other than the transport of passengers as described in subparagraph (C) or the exclusive use of a vehicle for domestic-household-familial purposes.
  - (E) All other motor vehicles, not classified under subparagraphs (A), (B), (C), or (D), owned by licensed drivers who are unable to obtain no-fault policies and optional additional insurance through ordinary methods.
- (2) The plan shall provide no-fault benefits and bodily injury and property damage<sup>1</sup> policies for all classes of persons, motor vehicles, and motor vehicle uses, at the premiums specified under subpart C, at the option of the owners, for the following classes, which the commissioner, by rules, shall further define and regulate:
  - (A) All licensed drivers, or unlicensed permanently disabled individuals unable to operate their motor vehicles, who are receiving public assistance benefits consisting of medical services or direct cash payments through the department of human services, or benefits from the supplemental security

income program under the social security administration; provided that the licensed drivers, or unlicensed permanently disabled individuals unable to operate their motor vehicles, are the sole registered owners of the motor vehicles to be insured; provided further that not more than one vehicle per public assistance unit shall be insured under this part, unless extra vehicles are approved by the department of human services as being necessary for medical or employment purposes; provided further that the motor vehicle to be insured shall be used strictly for personal purposes, and not for commercial purposes.

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

Each category of driver/owner under subparagraphs (A) and (B) may secure no-fault coverage through the plan at the individual's option, provided any previous no-fault policy has expired or has been canceled. Any person becoming eligible for plan coverage under subparagraph (A) shall first exhaust all paid coverage under any no-fault policy then in force before becoming eligible for plan coverage.

Any person eligible or becoming eligible under rules adopted by the commissioner under subparagraph (B), may at any time elect coverage under the plan and terminate any prior private insurer's coverage.

A certificate shall be issued by the department of human services indicating that the person is a bona fide public assistance recipient as defined in subparagraph (A). The certificate shall be deemed a policy for the purposes of chapter 431 upon the issuance of a valid no-fault insurance identification card pursuant to section 431:10C-107.

- (3) Under the joint underwriting plan, [all basic no-fault coverages, including the basic no-fault policy, the mandatory \$35,000<sup>1</sup> bodily injury liability, and the \$10,000 property damage policies] the required motor vehicle policy coverages as provided in section 431:10C-301<sup>1</sup> shall be offered by every insurer to each eligible applicant assigned by the bureau. In addition, uninsured motorist and underinsured motorist coverages shall be offered by every insurer in conformance with section 431:10C-301, and<sup>1</sup> optional additional coverages shall be offered by every insurer<sup>1</sup> in conformance with section 431:10C-302, for each class except that defined in paragraph (2)(A), as the commissioner, by rules, shall provide.

(c) The commissioner may further refine the definitions of the classifications provided for in subsection (b).”

SECTION 8. Section 431:10C-409, Hawaii Revised Statutes, is amended to read as follows:

“**§431:10C-409 Establishment and criteria.** The commissioner shall, after consultation with the board, establish and promulgate the rating rules, classification standard and rules, rates, rating plans, territories, and policy forms for use in the provision of all motor vehicle insurance issued under the joint underwriting plan, in accordance with the following provisions:

- (1) Rates shall not be excessive, inadequate or unfairly discriminatory.
- (2) Consideration shall be given to the following:

- (A) The plan's past and prospective loss experience within the State;
  - (B) Contingencies in the administration of motor vehicle insurance sold;
  - (C) Past and prospective expenses in the sale and administration of motor vehicle insurance;
  - (D) Income from investments of premiums and other proceeds received on account of joint underwriting plan motor vehicle insurance sold; and
  - (E) 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].
- (3) The commissioner may:
- (A) Establish rating territories and group risks by classifications for the establishing of rates and minimum premiums;
  - (B) Provide for, by regulation, a uniform classification of risks and rating territories for the various coverages;
  - (C) Modify classification rates to produce rates in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks including vehicles, occupations, past traffic convictions, and involvement in past accidents, provided they are established to have a demonstrable effect upon losses or expense; and
  - (D) Ensure that no standard or rating plan shall be based, in whole or in part, directly or indirectly, upon a person's race, creed, ethnic extraction, age, sex, length of driving experience, credit bureau rating, marital status, or physical handicap."

SECTION 9. An insurer shall include the amount of savings, if any, as a result of Acts 123 and 124, Session Laws of Hawaii 1992, when filing their rates pursuant to Article 14 of chapter 431, Hawaii Revised Statutes. The insurance commissioner shall ensure that insurers factors in this savings, if any, prior to approval of the rates.

SECTION 10. Until the commissioner by rule sets the rates, the premium basis for the newly established class under section 431:10C-407(b)(1)(E) shall be determined as follows: The commissioner shall survey the five largest motor vehicle insurers in the State and shall determine an average premium rate based on the survey. The premium basis for the newly established class under section 431:10C-407(b)(1)(E) shall be fifteen per cent higher than the average premium rate established by the survey. This rate shall remain in effect until the commissioner by rule shall establish the appropriate rate.

SECTION 11. If any provision of this Act, or its application to any person, insurer, or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of the Act are severable.

SECTION 12. This Act does not affect rights and duties that matured,

penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 14. This Act shall take effect upon its approval.

(Approved September 13, 1993.)

Notes

- 1. So in original.
- 2. Edited pursuant to HRS §23G-16.5.

ACT 5

H.B. NO. S9-93

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

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

PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, and Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 9:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$ 303,220	\$1,164,745
Special Funds	\$ 162,965	\$ 504,999
Federal Funds	\$ 25,151	\$ 110,635

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance in the respective fiscal year for the purposes of this part.

PART II

SECTION 3. There are hereby appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 9:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$ 1,867	\$ 5,871



SECTION 4. Funds appropriated or authorized by this part shall be allotted by the chief justice in the respective fiscal year for the purposes of this part.

PART III

SECTION 5. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 6. Funds appropriated or authorized by this Act which are not expended or encumbered by June 30, 1994, and June 30, 1995, of the respective fiscal years, shall lapse as of those dates.

SECTION 7. This Act, upon its approval, shall take effect retroactive to July 1, 1993.

(Approved September 21, 1993.)

ACT 6

H.B. NO. S10-93

A Bill for an Act Relating to State Officers and Employees Excluded from Collective Bargaining and Making Appropriations and Other Adjustments.

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

SECTION 1. Act 299, Session Laws of Hawaii 1993, is amended by amending section 1 to read as follows:

“SECTION 1. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, and Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining:

	<u>FY 1993-94</u>		<u>FY 1994-95</u>	
General Funds	[\$182,219]	\$183,253	[\$549,969]	\$553,256
Special Funds	[\$ 1,709]	\$ 2,559	[\$ 5,160]	\$ 7,432
Other Funds	\$ 746		\$ 2,249”	

SECTION 2. This Act, upon its approval, shall take effect retroactive to July 1, 1993.

(Approved September 21, 1993.)

ACT 7

H.B. NO. S7-93

A Bill for an Act Relating to a Convention Center.

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

## PART I.

SECTION 1. The legislature finds that existing convention facilities in Hawaii are inadequate for the needs of many convention groups. The legislature declares that any convention center facility should be centrally located within or near Waikiki to best address the needs of prospective conventioners, and that the most appropriate existing sites are what is popularly known as the Aloha Motors site and what is popularly known as the Ala Wai golf course site. These sites are located near the visitor hub of Waikiki, surrounded by several major hotels and in walking distance from many other hotels. In this context, a convention center is presented with the capacity to act in synergism with the surrounding uses. Building a convention center facility at either of these sites would serve the purpose of providing an easily accessible convention center.

The legislature finds that the public interest requires the construction of a convention center facility at either of the above-named sites.

SECTION 2. Chapter 206X, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§206X- General criteria for development of a convention center.** The following criteria shall apply to any convention center facility built or developed in any convention center district:

- (1) The convention center facility shall be a stand-alone facility, without additional private development on-site;
- (2) The convention center facility shall be owned and operated by the authority;
- (3) The flexible meeting rooms, ballrooms, and support space shall consist of a minimum of 675,000 gross square feet, of which a minimum of 200,000 gross square feet shall be exhibit space; provided that the exhibit space and related support space shall be on a single level with direct vehicle access to the exhibit floor;
- (4) The convention center facility shall be designed and developed to accommodate future expansion; and
- (5) The convention center facility shall reflect a Hawaiian sense of place.”

SECTION 3. Section 46-11, Hawaii Revised Statutes, is amended to read as follows:

**“§46-11 Federal flood insurance.** The convention center authority in regard to the convention center district and the mayor or executive officer and the council of the various counties, in regard to the respective counties, may participate and apply on behalf of their respective district and counties for flood insurance coverage pursuant to any applicable provisions of Public Law 1016, Eighty-fourth Congress, Second Session, (70 Stat. 1078). [They] The convention center authority, in regard to the convention center district, and the mayor or executive officer and the council of the various counties, in regard to the respective counties, shall be vested with the functions, powers, and duties which are necessary to enable their respective district and counties to qualify, participate, and apply for the flood insurance coverage.”

SECTION 4. Section 206X-5, Hawaii Revised Statutes, is amended to read as follows:

**“§206X-5 [Designation of convention center district; convention] Convention center development plan. [(a) The authority shall conduct a survey of potentially appropriate sites both in Waikiki; and other areas in the State and a study of criteria for development within a convention center district and report to the legislature not less than twenty days prior to the convening of the regular session of 1993 with an update of its recommendations of appropriate sites and criteria for development to be approved by the legislature.**

**(b)] (a) The authority shall review for approval the convention center development plan of a developer which shall include a convention center and other improvements proposed for development within the convention center district. In its review of any proposed convention center development plan pursuant to this chapter, the authority shall apply the criteria of the convention center district rules and any criteria for development within the convention center district established by the legislature.**

**[(c)] (b) The authority may enter into cooperative agreements with qualified persons or public agencies, where the powers, services, and capabilities of such persons or agencies are deemed necessary and appropriate for review by the authority of the development of the convention center development plan.**

**[(d)] (c) Whenever possible, the convention center development plan shall be consistent with federal, state, and county plans. Consideration shall be given to state goals and policies, adopted state plan or land use guidance policies, county general plans, development plans, and ordinances.**

**[(e) The authority shall hold a public hearing on a proposed convention center development plan pursuant to chapter 91.]”**

SECTION 5. Section 206X-6, Hawaii Revised Statutes, is amended to read as follows:

**“§206X-6 Convention center district rules. The authority shall establish rules for the development within the convention center district under chapter 91 on health, safety, building, planning, zoning, [and] land use, land development, and flood plain management, including mitigation and permitting, which, upon final approval by the authority of a convention center development plan, shall supersede all other inconsistent ordinances and rules relating to [the use,] health, safety, building, planning, zoning, [planning, and development of land and construction thereon.] land use, land development, and flood plain management, including mitigation and permitting, and provision of access and utilities thereto. The convention center development plan approved by the authority shall be made a part of, and shall have the same force and effect as, the rules aforesaid. [Any development proposal within the boundaries of the Waikiki special design district and within the designated convention center district under agreement with a developer shall be subject to the requirements of chapter 343 relating to environmental impact statements and shall be provided for in the rules. The environmental impact statement shall include the disclosure of the environmental effects of the proposed development, effects of the proposed development on the economic and social welfare of the community and State including the welfare of persons to be dislocated by the proposed development, effects of the economic activities arising out of the proposed development, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects.] Rules adopted under this section shall follow existing law, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development[.], and accomplishment of the purposes of this chapter.**

For purposes of chapters 501, 502, and 514A, the authority may certify maps and plans of lands and real property interests within the convention center district as having complied with applicable laws and ordinances relating to consolidation, subdivision of lands, and condominium property regimes, and such maps and plans shall be accepted for registration or recordation by the land court and registrar.”

SECTION 6. Section 206X-8, Hawaii Revised Statutes, is amended to read as follows:

“**[§206X-8]** **Use of public lands[; acquisition of state lands].** [(a)] Any provision of chapter 171 to the contrary notwithstanding, the governor may set aside, transfer, convey, or lease public lands [located within the convention center development district] wherever situated and whether or not set aside to any department or agency of the State or any political subdivision of the State, to the authority for its use.

[(b)] If state lands under the control and management of other public agencies are required by the authority for its purposes, the agency having the control and management of those required lands shall, upon request by the authority and with the approval of the governor, convey or lease such lands to the authority upon such terms and conditions as may be agreed to by the parties.

(c) Notwithstanding the foregoing, no public lands shall be set aside, conveyed, or leased to the authority as above provided if such setting aside, conveyance, or lease would impair any covenant between the State or any county or any department or board thereof and the holders of bonds issued by the State or such county, department, or board.]”

SECTION 7. The convention center authority established by section 206X-3, Hawaii Revised Statutes, is authorized to negotiate with the appropriate person for the purchase of the undeveloped Aloha Motors site. The purchase price of the site, and any other lands acquired by any means in connection with the development of the convention center, together with convention center development costs, including the cost to construct the convention center, shall not exceed \$350,000,000.

The negotiations shall result in a binding agreement for the purchase and sale of the undeveloped Aloha Motors site, which negotiations, binding agreement, and purchase and sale shall be specifically exempt from the requirements of chapter 343. The binding agreement shall require transfer of the land by deed with full warranty of title free and clear of all liens and subject to only such encumbrances and easements as shall be acceptable to the State.

Upon the execution of a binding agreement, the Aloha Motors site is designated to be the convention center district.

The binding agreement pursuant to this section shall be executed by the convention center authority and the appropriate person with respect to the Aloha Motors site by 11:59 p.m. on the sixtieth calendar day following the approval of this Act or if the sixtieth calendar day falls on a Saturday, Sunday, or state holiday, by 11:59 p.m. on the weekday immediately following the sixtieth calendar day; provided that any period of time during which a court with appropriate jurisdiction has enjoined negotiations or agreement shall not be included in the computation of the sixty-day period.

For purposes of this Act, the Aloha Motors site is defined as that parcel of land consisting of approximately 9.67 acres and more particularly identified as tax map key 2-3-35:1, 2, 4, 5, 8, 10, and tax map key 2-3-36:18, 24, 25.

SECTION 8. In the event of the repeal of SECTION 7 of this Act pursuant to SECTION 32 of this Act, the Ala Wai golf course site is designated to be the convention center district and the convention center authority shall exercise its powers to effectuate the development of a convention center facility at the Ala Wai golf course site upon the transfer of the use and control of the Ala Wai golf course site to the convention center authority pursuant to section 46-65.7, Hawaii Revised Statutes. For purposes of this Act, the Ala Wai golf course site is defined as that parcel of land consisting of approximately 16.0 acres generally situated at the Ewa portion of the Ala Wai golf course and being a portion of that parcel of land more particularly identified as tax map key 2-7-36:2.

Upon the designation of the Ala Wai golf course site as the convention center district, the governor is authorized to transfer the use, operation, and control of the Kapolei golf course to the city and county of Honolulu; provided that the transfer shall be made only if the city and county of Honolulu agrees to accept the transfer. For purposes of this Act, the Kapolei golf course is defined as that parcel of land more particularly identified as tax map key 9-1-16: por. 35.

If development of a convention center facility at the Ala Wai golf course site is effectuated pursuant to this section, then watershed management activities shall be implemented to carry out the clean up and maintenance of the Ala Wai canal.

The purchase price of the site and any other lands acquired by any means in connection with the development of the convention center, together with convention center development costs, including the cost to construct the convention center, shall not exceed \$350,000,000, including, but not limited to the cost of the transfer of the Kapolei golf course and the clean up of the Ala Wai canal.

SECTION 9. Section 46-65.7, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§46-65.7]]~~ **Ala Wai golf course.** The fair commission of Hawaii is abolished and the functions and authority of the fair commission of Hawaii relating to the Ala Wai golf course are transferred to the city and county of Honolulu, together with the use and control of all lands, property, and facilities under its jurisdiction; provided that the lands, property, and facilities shall be used for the purposes of operating a municipal golf course; and provided further that the governor may by executive order transfer the use and control of the lands, property, and facilities or any part of the lands, property, and facilities to the appropriate department or agency of the State designated by the governor upon the giving of [one year's] six months written notice before the date of the transfer back to the State to the city and county of Honolulu.”

SECTION 10. The convention center authority shall provide for construction of the convention center utilizing a request for proposals process.

## PART II.

SECTION 11. **Findings and purpose.** The legislature finds that convention organizers from around the country have bypassed Hawaii for other destinations because the State lacks the facilities to house these participants, sessions and workshops, and displays in a professional manner. The loss of convention-related business to other destinations could have long-lasting and far-reaching impacts on the State, not only on Oahu but on the neighbor islands as well, since

Hawaii's economy is heavily dependent on the tourist trade generated by these conventions.

It is necessary for the State and the counties to make certain sacrifices today in order to build a world-class convention center, and ensure Hawaii's place as one of the world's prime visitor destinations tomorrow. The State and the counties will benefit from future increases in convention-related business, which will add an estimated \$335,000,000 a year in new tax revenues. Conversely, future decreases in convention-related business because of the lack of a convention center will result in less revenues being generated through the general excise tax and transient accommodations tax and less moneys for the State and the counties alike.

The transient accommodations tax is derived primarily from visitors from outside of the State and convention travelers comprise a significant portion of these visitors. The legislature finds that a convention center would stimulate economic activity in the visitor industry and the resulting increase in revenue from the transient accommodations tax and the general excise tax will be substantially attributable to the presence of a convention center. The legislature further finds that the construction and operation of a convention center are crucial to the economic well-being of the State and the counties and are for a public purpose.

The revenue bonds issued by the authority to finance the convention center are to be repaid entirely from the convention center capital and operations special fund. This special fund is funded by revenues from the transient accommodations tax and operations of the convention center. The transient accommodations tax is substantially derived from a function of the convention center to increase and maintain sales of hotel rooms and other transient accommodations.

SECTION 12. Chapter 206X, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§206X- Convention center capital and operations special fund.**

(a) There is established in the state treasury the convention center capital and operations special fund, into which shall be deposited:

- (1) A portion of the revenues from the transient accommodations tax, as provided by section 237D-6.5;
- (2) All revenues derived from the operations of the convention center;
- (3) All or a portion of all revenues derived from the operation of parking and garage facilities and other concessions at the convention center;
- (4) All proceeds from revenue bonds issued by the authority; and
- (5) Appropriations by the legislature to the convention center capital and operations special fund.

(b) In addition to the powers of the authority specified in section 206X-4, the authority may:

- (1) Define, through rules adopted in accordance with chapter 91, the term “revenues derived from the operations of the convention center” or like terms; and
- (2) Do any and all things deemed necessary to administer the convention center capital and operations special fund.

(c) Moneys in the convention center capital and operations special fund may be placed in interest-bearing accounts or otherwise invested by the authority until such time as the moneys may be needed. All interest accruing from the investment of these moneys shall be credited to the convention center capital and

operations special fund.

(d) Moneys in the convention center capital and operations special fund shall be used by the authority for the following purposes:

- (1) Planning, design, improvement, construction, land acquisition, equipment, and furnishing necessary for the development or maintenance of a convention center;
- (2) Constructing, operating, maintaining, and improving the convention center and any public facilities related thereto;
- (3) Payment of debt service on revenue bonds issued by the authority for purposes of the convention center, establishment of debt service and other reserves deemed necessary by the authority or the State, and reimbursement of the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of the convention center; and
- (4) Any other purpose deemed necessary by the authority for the purpose of planning, improving, developing, operating, and maintaining the convention center facility."

SECTION 13. Section 206X-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Convention center facility" or "convention center" means any combination of land, buildings, and improvements thereon, suitable for use as a convention center; any other structure or facility required or useful for the operation of a convention center facility, including, but not limited to, commercial, office, community service, parking, garage, and other supporting service structures; and all necessary, useful, and related equipment, furnishings, and appurtenances."

SECTION 14. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

**"§36-27 Transfers from special funds for central service expenses.** Except as hereinafter provided, and notwithstanding any provisions of any other law to the contrary, there shall be deducted from time to time by the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the special summer school fund under section 298-3.5; the school cafeteria special funds of the community colleges[,] and the department of education; the special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii; [and] the state educational facilities improvement special fund[.]; and the convention center capital and operations special fund, five per cent of all receipts of each such special fund, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers."

SECTION 15. Section 206X-2, Hawaii Revised Statutes, is amended by amending the definition of "developer" to read:

"Developer" means any person, partnership, cooperative, firm, nonprofit or for-profit corporation, or public agency possessing the competence, expertise, experience, and resources, including financial, personal, and tangible resources,

required to [carry out] effectuate, directly or through other developers, the development of a convention center[.], including planning, design, and construction.”

SECTION 16. Section 206X-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) Except as otherwise limited by this chapter, the authority also may:
- (1) Sue and be sued;
  - (2) Have a seal and alter the same at pleasure;
  - (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
  - (4) Make and alter bylaws for its organization and internal management;
  - (5) [Make] Adopt rules in accordance with chapter 91 with respect to its projects, operations, properties, and facilities[, which rules shall be in conformance with chapter 91];
  - (6) Through its executive director appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapters 76 and 77;
  - (7) Review and approve the convention center development plan proposed by a developer, for the convention center district; inspect and approve development within the convention center district for compliance with convention center development plans and rules; and upon [dedication] construction of the convention center facility [to the State, to], manage, operate, and maintain or enter into contracts for the professional management, operation, and maintenance of the convention center facility;
  - (8) Cause a developer to prepare plans, specifications, and designs for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from time to time, to modify such plans, specifications, or designs; provided that the plans, specifications, or designs shall be subject to review and approval by the authority;
  - (9) Procure insurance against any loss and any liability in connection with [its property] the convention center and other related assets and operations in such amounts and from such insurers as it deems desirable;
  - (10) Contract for and accept gifts or grants in any form from any public agency, or [from] any other source;
  - (11) Upon the [authority determining that a developer, acting in good faith, is unable to develop the convention center facility in cooperation with the holders of any interest in property in the convention center district, and upon making a finding that the acquisition of such] request of the authority and the approval of the governor, condemn any real property [interest is] interests as the authority deems necessary for [its use for the purposes of this chapter, may acquire the property by condemnation] the development of a convention center pursuant to chapter 101[, notwithstanding any contract to the contrary]; provided[, however,] that the valuation of any such property acquired pursuant to the exercise of the authority’s power under this subsection shall be done without regard to any increase or decrease in the value of the property resulting from the application



- of this chapter. Property [so] acquired by condemnation shall not be subject to chapter 171. If the convention center site is acquired partially or wholly by eminent domain action, the developer shall reimburse to the State the sum of money equal to the just compensation or damages for the taking of the convention center site under the provisions of section 101-29];
- (12) Negotiate with the developer for contribution by the developer to defray costs relating to the relocation of persons displaced because of the development;
- [(13) Ancillary to the development of the convention center facility, permit the development by the developer of the convention center facility, hotels, condominiums, commercial, retail, and office space, and other improvements which would increase the utilization of the convention center facility;
- (14)] (13) On behalf of the State, accept the authority to operate, manage, and maintain the convention center facility upon [its dedication to the State;] provided that it deems this action to be in the best interest of the State;] completion or acquisition of such facility;
- [(15)] (14) Issue revenue bonds, subject to the approval of the legislature. All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this [chapter]. [The] All revenue bonds shall be issued in the name of the authority and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding thirty years from the date of issuance;
- [(16) If [section 9, Act 159, Session Laws of Hawaii 1992, enacting the Waikiki task force] becomes effective, assist the Waikiki task force established thereby, whenever the task force considers convention center matters; and]
- (15) Pledge or assign all or any part of the receipts and revenues of the authority;
- (16) Set and collect rents, fees, charges, or other payments for the lease, use, occupancy, or disposition of the convention center facility acquired, constructed, or reconstructed by the authority pursuant to this chapter;
- (17) Acquire, lease as lessee or lessor, own, rent, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter;
- (18) Acquire by purchase, lease, or otherwise, and develop, construct, operate, own, manage, repair, reconstruct, enlarge, or otherwise effectuate, either directly or through developers, a convention center;
- (19) Reimburse the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of the convention center;
- [(17)] (20) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter[.]; and
- (21) By itself, or in combination or association with qualified persons, by any form of request for proposals, as determined by the authority, any law to the contrary notwithstanding, solicit, accept, review, reject, modify, or approve proposals, and thereafter enter into agreements, for a convention center development plan, and for the initiation, undertaking, supervision and regulation of the design,

development, financing, operation and maintenance of a convention center facility and any related developments.”

SECTION 17. Section 206X-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) As a further condition and consideration of the right to develop the real property within the convention center district under the agreement[,] and pursuant to this chapter, the developer shall pay a reasonable sum determined by the authority as contribution for the payment of costs relating to:

- (1) The temporary or permanent relocation of existing licensees and lessees, if any, who are displaced because of the development within the convention center district pursuant to the convention center development plan by the developer; or
- (2) Settlement payments in lieu of payments provided under paragraph (1) to existing licensees and lessees, if any, who are displaced by the developer because of the development within the convention center district pursuant to the convention center development plan; provided that each displaced licensee or lessee shall have the option to select either relocation or a settlement payment.

Upon the approval by the authority of the relocation plan, which shall be prepared and submitted by the developer to the authority, the developer shall deliver to the authority for deposit into the convention center [development revolving] capital and operations special fund the sum determined by the authority in the form of a certified check, an irrevocable letter of credit, or surety bond. The sum determined by the authority shall be used for the implementation of the relocation plan[.]; provided that the sum and all interest accrued thereon shall be refunded to the developer in the event this chapter expires and becomes void.

The relocation plan shall include an agreement by the developer to give every displaced licensee or lessee who does not elect to receive a settlement payment under paragraph (2) an unassignable right of first refusal of any license or lease of space within the convention center district developed and offered for [such] those activities similar in size and nature to the business conducted by the licensee or lessee at the time of displacement, unless [such] this right is waived by any licensee or lessee.

The authority shall [cause to be established] establish a task force to assist in the implementation of the relocation plan. The task force shall include persons representing agencies, organizations, government, and private interests.”

SECTION 18. Section 237D-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is levied and shall be assessed and collected each month a tax of five per cent for the period beginning on January 1, 1987, to June 30, 1994, and a tax of six per cent for the period beginning July 1, 1994, and thereafter, on the gross rental or gross rental proceeds derived from furnishing transient accommodations.”

SECTION 19. Section 237D-6.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§237D-6.5~~]]~~ **Remittances; distribution to counties.** (a) All remittances of taxes imposed under this chapter shall be made by cash, bank drafts,

cashier's check, money order, or certificate of deposit to the office of the taxation district to which the return was transmitted.

(b) For the fiscal year beginning July 1, 1990, and for each fiscal year thereafter, until June 30, 1994, revenues collected under this chapter shall be distributed as follows: five per cent of the revenues collected under this chapter shall be retained by the State [to be used for the costs of assessment, collection, and disposition of the transient accommodations taxes under this chapter]. Of the remainder, Kauai county shall receive 14.5 per cent; Hawaii county shall receive 18.6 per cent; city and county of Honolulu shall receive 44.1 per cent; and Maui county shall receive 22.8 per cent.

For the fiscal year beginning July 1, 1994, and for each fiscal year thereafter, revenues collected under this chapter shall be distributed as follows:

- (1) One-sixth of the revenues collected under this chapter shall be deposited into the convention center capital and operations special fund;
- (2) Of the remaining revenues, five per cent shall be retained by the State; and
- (3) Of the remainder, Kauai county shall receive 14.5 per cent; Hawaii county shall receive 18.6 per cent; city and county of Honolulu shall receive 44.1 per cent; and Maui county shall receive 22.8 per cent.

All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection, and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection[; provided that, all taxes levied and assessed under this chapter for periods before July 1, 1990, but collected after June 30, 1990, shall be state realizations].

(c) On or before January or July 1 of each year or after the disposition of any tax appeal with respect to an assessment for periods after June 30, 1990, the state director of finance shall compute and pay the amount due as provided [for] in subsection (b) to the director of finance of each county to become a general realization of the county expendable as such, except as otherwise provided by law."

SECTION 20. Section 206X-10, Hawaii Revised Statutes, is repealed.

SECTION 21. The director of finance shall transfer to the credit of the convention center capital and operations special fund on the effective date of this Act, all unexpended or unencumbered balances remaining in the convention center development revolving fund scheduled for repeal on the effective date of this Act.

SECTION 22. There is appropriated out of the convention center capital and operations special fund the sum of \$150,000, or so much thereof as may be necessary for fiscal year 1993-1994, to be expended by the authority for the purposes of this Act.

SECTION 23. The director of finance is authorized to issue general obligation bonds or reimbursable general obligation bonds, or any combination thereof in the aggregate principal amount of \$350,000,000 or so much thereof as may be necessary, and the same amount, or so much thereof as may be necessary, is appropriated for fiscal years 1993-1994, and 1994-1995, to be expended by the authority for the purposes of this Act, including, without limitation, the financing and refinancing of all or any part of the cost of planning, designing, improving, acquiring, constructing, equipping, or furnishing the convention center facility

authorized in this Act; the financing of any public facilities related thereto that are capable of being financed with the proceeds of the bonds, and the payment of interest on such bonds that will accrue during the construction period and for six months thereafter.

SECTION 24. The authority, with the approval of the director of finance and the governor, is authorized to issue revenue bonds in an aggregate principal amount of \$350,000,000, or so much thereof as may be necessary, and the same amount, or so much thereof as may be necessary, is appropriated for fiscal years 1993-1994, and 1994-1995, from moneys in the convention center capital and operations special fund, to be expended by the authority for the purposes of this Act, including, without limitation, the financing and refinancing of all or any part of the cost of planning, designing, improving, acquiring, constructing, equipping, or furnishing the convention center facility authorized in this Act; the financing of any public facilities related thereto that are capable of being financed with the proceeds of the bonds, and the payment of interest on such bonds that will accrue during the construction period and for six months thereafter.

SECTION 25. There is appropriated out of the convention center capital and operations special fund the sum of \$4,125,000, or so much thereof as may be necessary for fiscal year 1993-1994, and the sum of \$8,250,000, or so much thereof as may be necessary for fiscal year 1994-1995, to be expended by the authority to pay for debt service on revenue bonds issued by the authority and to reimburse the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of the convention center.

SECTION 26. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,125,000, or so much thereof as may be necessary for fiscal year 1993-1994, and the sum of \$8,250,000, or so much thereof as may be necessary for fiscal year 1994-1995, to be expended by the department of budget and finance to pay for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of the convention center.

SECTION 27. The state supreme court shall have exclusive and original jurisdiction over any controversy or dispute regarding the financing of the convention center through the issuance of revenue bonds, general obligation bonds, and reimbursable general obligation bonds, and the security provisions therefor, and the imposition and collection of the transient accommodations tax to repay or provide security for the bonds; provided that such jurisdiction be limited to the applicability of Article VII of the Constitution of the State of Hawaii to such matters.

### PART III.

SECTION 28. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, section 13, of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be

exceeded at the time of issuance,” the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the State is set forth in Article VII, section 13, of the State Constitution, which states in part: “General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance.” Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including “reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year” and “bonds constituting instruments of indebtedness under which the State or any political subdivision incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under this section.”
- (2) Actual and estimated debt limits. The limit on principal and interest on general obligation bonds issued by the State, actual for fiscal year 1992-93 and estimated for each fiscal year from 1993-94 to 1996-97, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1989-90	\$2,418,273,831	
1990-91	2,654,706,036	
1991-92	2,672,238,596	
1992-93	2,773,716,000	\$477,621,805
1993-94	2,779,671,000	499,540,739
1994-95	2,910,923,000	507,246,912
1995-96	3,099,945,000	521,965,783
1996-97	(Not Applicable)	542,083,238

For fiscal years 1992-93, 1993-94, 1994-95, 1995-96, and 1996-97 respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half percent. The net general fund revenues for fiscal years 1989-90, 1990-91, and 1991-92 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1992, dated December 1, 1992. The net general fund revenues for fiscal years 1992-93 to 1995-96 are estimates, based on general fund revenue estimates made as of April 15, 1993, by the council on revenues, the body assigned by Article VII,

section 7, of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by Article VII, section 13, of the State Constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of July 1, 1993, is as follows for fiscal year 1993-94 to fiscal year 1999-2000:

Fiscal Year	Principal and Interest
1993-94	\$285,166,913
1994-95	317,338,889
1995-96	361,199,046
1996-97	326,344,538
1997-98	299,295,544
1998-99	269,080,899
1999-2000	264,411,466

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2000-2001 to fiscal year 2012-13 when the final installment of \$25,889,838 shall be due and payable. (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$222,600,000, part of which is excludable in determining the power to the State to issue general obligation bonds, pursuant to Article VII, section 13, of the State Constitution.

- (4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds and guaranties. (A) As calculated from the state comptroller's bond fund report as of March 31, 1993, adjusted for (1) appropriations to be funded by general obligation bonds as provided in Act 35, Session Laws of Hawaii 1993, in the amount of \$136,500,000; (2) lapses as provided in Act 289, Session Laws of Hawaii 1993 (the General Appropriations Act of 1993) amounting to \$6,526,821; (3) lapses as provided in Act 277, Session Laws of Hawaii 1993 (the Judiciary Appropriations Act of 1993) amounting to \$38,387,000; and (4) the issuance of \$130,245,000 general obligation bonds of 1993, Series BE, the total amount of authorized but unissued general obligation bonds is \$347,070,798. The total amount of general obligation bonds authorized by this Act is \$350,000,000. The findings and declaration of the legislature regarding this sum was also made in House Bill No. S1-93 (Relating to State Bonds) passed by this Special Session of 1993. The amount of general obligation bonds authorized by this Act does not result in an increase in general obligation bonds authorized in House Bill No. S1-93. The total amount of general obligation bonds previously

authorized and unissued and the general obligation bonds authorized by this Act is \$1,396,717,596. (B) As reported by the department of budget and finance, the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$222,600,000, part of which is excludable in determining the power to the State to issue general obligation bonds, pursuant to Article VII, section 13, of the State Constitution.

- (5) Proposed general obligation bond issuance. As reported herein for fiscal years 1992-93, 1993-94, 1994-95, 1995-96, and 1996-97, the State proposes to issue \$350,000,000 during the first half of fiscal year 1993-94, \$237,500,000 during the second half of fiscal year 1993-94, and \$100,000,000 in each half of fiscal year 1994-95, \$200,000,000 during the first half of fiscal year 1995-96, \$212,500,000 during the second half of fiscal year 1995-96, and \$100,000,000 in each half of fiscal year 1996-97. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal, and interest payments commencing six months from the date of issuance and being paid semiannually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the fiscal years 1992-93 to 1995-96 is \$1,200,000,000. An additional \$200,000,000 is proposed to be issued in fiscal year 1996-97. The total amount of \$1,200,000,000 which is proposed to be issued through fiscal year 1995-96 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is \$1,396,717,596, as reported in paragraph (4), except for \$196,717,596. It is assumed that the appropriations to which an additional \$196,717,596 in bond issuance needs to be applied will have been encumbered as of June 30, 1996. The \$200,000,000 which is proposed to be issued in fiscal year 1996-97 will be sufficient to meet the requirements of the June 30, 1996, encumbrances in the amount of \$196,717,596. The amount of assumed encumbrances as of June 30, 1996, is reasonable and conservative. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1996, and the amount of June 30, 1996, encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1996-97, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.
- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. (A) General obligation reimbursable bonds can be excluded under

certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:

- (i) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
- (ii) Not all reimbursable bonds may qualify for exclusion.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the department of budget and finance, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 8.7 percent for the ten years from fiscal year 1993-94 to fiscal year 2002-2003. For the purpose of this declaration, the assumption is made that five percent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative. (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of this paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under Article VII, section 13, of the State Constitution for the fiscal years 1993-94, 1994-95, 1995-96, and 1996-97 are as follows:

Fiscal Year	Total Amount of General Obligation Bonds Not Otherwise Excluded by Article VII, Section 13, of the State Constitution
1993-94	\$2,947,712,065
1994-95	2,949,933,228
1995-96	3,087,163,098
1996-97	3,025,309,239

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven percent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided by, can be excluded in determining the power of the State to issue general obligation



bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to an actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to Article VII, section 13, of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on such assumptions and on the determination in paragraph (8), the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which must be included in determining the power of the State to issue general obligation bonds is \$12,427,666.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of 7.5 percent, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such issuance:

Time of Issuance and Amount to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties
1st half FY 1993-94 \$332,500,000	499,540,736	398,564,212 (FY 1995-96)
2nd half FY 1993-94 \$225,625,000	499,540,736	415,486,087 (FY 1995-96)
1st half FY 1994-95 \$95,000,000	507,246,912	422,611,087 (FY 1995-96)
2nd half FY 1994-95 \$95,000,000	507,246,912	429,736,087 (FY 1995-96)
1st half FY 1995-96 \$190,000,000	521,965,783	439,451,618 (FY 1996-97)
2nd half FY 1995-96 \$201,875,000	521,965,783	454,592,243 (FY 1996-97)
1st half FY 1996-97 \$95,000,000	542,083,238	442,708,200 (FY 1997-98)
2nd half FY 1996-97 \$95,000,000	542,083,238	449,833,200 (FY 1997-98)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act and for all bonds authorized and unissued and calculated for all bonds issued and outstanding and guaranties, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 29. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in this Act and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$350,000,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-16, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

#### PART IV.

SECTION 30. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 31. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 32. This Act shall take effect upon its approval; provided that SECTION 7 of this Act is repealed if the convention center authority and the appropriate person with respect to the Aloha Motors site have not executed the binding agreement in accordance with the provisions of SECTION 7 of this Act.

(Approved October 4, 1993.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 8

S.B. NO. S3-93

A Bill for an Act Relating to Procurement.

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

SECTION 1. The legislature finds that there is a need to improve and update the State's laws relating to government procurement.

It is the legislature's intent that there be a single source of public procurement policy to be applied equally and uniformly to the State and counties. This Act shall apply to the procurement practices of all entities created by the State's

and counties' constitution, charters, statutes, ordinances, administrative rules, or executive orders, including the office of Hawaiian affairs, and the departments, commissions, councils, boards, bureaus, committees, institutions, authorities, legislative bodies, agencies, government corporations, or other establishment of the State or its several counties.

It is the policy of the State to ensure the fair and equitable treatment of all persons who deal with the procurement system of the State and counties. Because public employment is a public trust, public employees must discharge their duties impartially to assure fair competitive access to governmental procurement by responsible contractors. Public employees shall conduct themselves in a manner that fosters public confidence in the integrity of the State procurement process. No comptroller, chief procurement officer, purchasing agency head, procurement officer, or employee whose duties include purchasing shall use or attempt to use one's official position to secure or grant unwarranted privileges, exemptions, or advantages or exhibit any favoritism or prejudice to any prospective bidder or contractor.

It is the policy of the State to foster broad-based competition. Full and open competition shall be encouraged. With competition, the State and counties will benefit economically with lowered costs. Therefore, it is the legislature's intent to maintain the integrity of the competitive bidding and contracting process by discouraging the State and counties from making changes to contracts once the contracts are awarded. If any contract needs to be amended, compelling reasons must exist for making the changes.

It is the policy of the State to ensure fiscal integrity, responsibility, and efficiency in the procurement process. Goods, services, and construction shall be purchased at fair and reasonable prices. However, if there are any disputes regarding the bidding and awarding of contracts, it is the legislature's intent to encourage all parties to settle their differences quickly through established administrative procedures.

The purpose of this Act is to promote economy, efficiency, and effectiveness in the procurement of goods and services, and the construction of public works for the State and counties, by:

- (1) Simplifying, clarifying, and modernizing the law governing procurement;
- (2) Requiring the continued development of procurement policies and practices;
- (3) Making the procurement laws of the State and counties as consistent as possible;
- (4) Ensuring the fair and equitable treatment of all persons who deal with the procurement system of the State and counties;
- (5) Providing increased economy in procurement activities and maximizing to the fullest extent practicable the purchasing value of public funds;
- (6) Fostering effective broad-based competition within the free enterprise system;
- (7) Providing safeguards for the maintenance of a procurement system of quality and integrity; and
- (8) Increasing public confidence in the procedures followed in public procurement.

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

**“CHAPTER  
HAWAII PUBLIC PROCUREMENT CODE**

**PART I. GENERAL PROVISIONS**

§ **-101 Requirement of good faith.** All parties involved in the negotiation, performance, or administration of state contracts shall act in good faith.

§ **-102 Application of this chapter.** (a) This chapter shall apply only to contracts solicited or entered into after the effective date of this chapter, unless the parties agree to its application to a contract solicited or entered into prior to the effective date.

(b) This chapter shall apply to every expenditure of public funds irrespective of their source by a governmental body as defined herein, under any contract; provided that the expenditure of federal assistance moneys shall be in accordance with federal requirements. This chapter shall not apply to:

- (1) Grants, subsidies, or purchases of service made pursuant to chapter 42D;
- (2) Employment agreements or collective bargaining agreements; and
- (3) Grants or contracts between the State and counties or other governments except as provided by part VIII.

Nothing in this chapter or rules adopted hereunder shall prevent any governmental body from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

(c) Unless other laws expressly exempt a governmental body from the requirements of this chapter or any of its provisions, this chapter and all rules adopted by the policy office pursuant to section -211 shall apply to all governmental bodies of this State; except that any county may rely on other provisions established by charter, ordinance, or rules adopted in accordance with chapter 91 provided that those provisions are consistent with the requirements of this chapter.

§ **-103 Retention of written determinations.** Written determinations required by this chapter shall be retained in the appropriate official files of the chief procurement officer or in the case of delegated authority, in the files of that purchasing agency.

§ **-104 Definitions.** As used in this chapter, unless the context clearly requires otherwise:

“Business” means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

“Change order” means a written order signed by the procurement officer, directing the contractor to make changes which the changes clause of the contract authorizes the procurement officer to order without the consent of the contractor.

“Construction” means the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. The term includes the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

“Contract” means all types of agreements, regardless of what they may be called, for the procurement or disposal of goods or services, or for construction.

“Contract modification” means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other

provisions of any contract accomplished by mutual action of the parties to the contract.

“Contractor” means any person having a contract with a governmental body.

“Cost-reimbursement contract” means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

“Data” means recorded information, regardless of form or characteristic.

“Employee” means an individual drawing a salary from a governmental body, whether elected or not, and any noncompensated individual performing services for any governmental body.

“Established catalogue price” means the price included in a catalogue, price list, schedule, or other form that:

- (1) Is regularly maintained by a manufacturer or contractor;
- (2) Is either published or otherwise available for inspection by customers; and
- (3) States prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the goods or services involved.

“Goods” means all property, including but not limited to equipment, equipment leases, materials, supplies, printing, insurance, and processes, including computer systems and software, excluding land or a permanent interest in land, leases of real property, and office rentals.

“Governmental body” means any department, commission, council, board, bureau, authority, committee, institution, legislative body, agency, government corporation, or other establishment or office of the executive, legislative, or judicial branch of the State, including the office of Hawaiian affairs, and the several counties of the State.

“Grant” means the furnishing of assistance, whether financial or otherwise, to any person to support a program authorized by law. The term does not include an award whose primary purpose is to procure an end product, whether in the form of goods, services, or construction; a contract resulting from such an award is not a grant but a procurement contract.

“Invitation for bids” means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

“Policy office” means the procurement policy office created in section -201.

“Procurement” means buying, purchasing, renting, leasing, or otherwise acquiring any good, service, or construction. The term also includes all functions that pertain to the obtaining of any good, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

“Procurement officer” means any person authorized to enter into and administer contracts and make written determinations with respect thereto. The term also includes an authorized representative acting within the limits of authority.

“Professional services” means those services within the scope of the practice of architecture, landscape architecture, professional engineering, land surveying, real property appraisal, law, medicine, accounting, dentistry, or any other practice defined as professional by the laws of this State.

“Purchase description” means the words used in a solicitation to describe the goods, services, or construction to be purchased, and includes specifications attached to, or made a part of, the solicitation.

“Purchasing agency” means any governmental body which is authorized by this chapter or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods, services, or construction.

“Request for proposals” means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

“Responsible bidder or offeror” means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

“Responsive bidder” means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

“Services” means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

“Specifications” means any description of the physical or functional characteristics, or of the nature of a good, service, or construction item. The term includes descriptions of any requirement for inspecting, testing, or preparing a good, service, or construction item for delivery.

“Using agency” means any governmental body which utilizes any goods, services, or construction procured under this chapter.

§ **-105 Public access to procurement information.** Procurement information shall be available to the public as provided in chapter 92F. The policy office shall adopt rules governing requests for confidentiality made by a bidder or offeror to prevent the unwarranted disclosure of trade secrets or proprietary information.

§ **-106 Penalties.** Any person who intentionally violates this chapter or any rules adopted pursuant to this chapter shall be guilty of a misdemeanor, and in addition to the applicable criminal penalty, shall be subject to removal from office and shall be liable to the State or the appropriate county for any sum paid by it in connection with the violation, and that sum, together with interest and costs, shall be recoverable by the State or county.

§ **-107 Compliance audit unit; establishment and purpose.** There is established a compliance audit unit within the office of the auditor. The purpose of this unit shall be to:

- (1) Periodically review and audit procurement practices within government to ensure compliance with this chapter and all applicable rules; and
- (2) Advocate competition, fairness, and accountability in the procurement process.

Reports made by this unit shall be a matter of public record. This unit shall utilize as part of the review process, a review of records and activities specifically for trends and patterns of occurrence.

§ **-108 Compliance audit unit; duties and responsibilities.** The compliance audit unit shall:

- (1) Review and assess applicable innovations in procurement methods or processes in other governmental jurisdictions or as described in national or regional publications;
- (2) Review current or proposed statutes and rules to determine whether they promote fairness, efficiency, and accountability in the procurement process;

- (3) Review selected contracts awarded pursuant to section -304;
- (4) Conduct studies, research, and analyses, and make reports and recommendations with respect to existing and new methods of procurement and other matters within the jurisdiction of the policy office;
- (5) Establish and maintain a procurement library;
- (6) Report to the appropriate agency and the chief procurement officer stating the areas of noncompliance and recommendations for remedial action; and
- (7) Be present at legislative hearings and policy office meetings to present the findings of the unit.

§ **-109 Compliance audit unit; government officers and employees to cooperate.** The officers and employees of the State and of each county shall cooperate with this unit and furnish to them such information related to procurement activities as may be called for in connection with the research activities of this unit. The information shall be provided in a timely manner and shall be free of charge.

§ **-110 Education and training.** The department of personnel services, either alone or in cooperation with any governmental body, including the department of labor and industrial relations, or in cooperation with other states, the federal government, or other persons may:

- (1) Develop and maintain a comprehensive training and development program for procurement professionals of the State and the several counties;
- (2) Conduct or participate in procurement education and training for persons not employed by the State; and
- (3) Sponsor a purchasing certification program conducted by a voluntary organization of procurement professionals.

§ **-111 Applicability of chapter 103.** Any provisions of chapter 103 not inconsistent with this chapter shall apply to the procurement of all goods, services, and construction under this chapter.

## PART II. PROCUREMENT ORGANIZATION

§ **-201 Creation and membership of the procurement policy office.**

(a) There is hereby created an autonomous state procurement policy office. The policy office shall be assigned, for administrative purposes only, to the department of accounting and general services.

(b) The policy office shall consist of a board of five members. Notwithstanding the limitations of section 78-5, the members of the board shall include:

- (1) The comptroller;
- (2) A county employee with significant high-level procurement experience; and
- (3) Three persons who shall not otherwise be full-time employees of, or contractors with, the State or any county; provided that at least one member shall be a certified professional in the field of procurement and at least one member shall have significant high-level, federal procurement experience.

Each appointed member shall have demonstrated sufficient business or professional experience to discharge the functions of the policy office. The initial and subsequent members of the policy office, other than the comptroller, shall be

appointed by the governor from a list of three individuals for each vacant position, submitted by a nominating committee composed of four individuals chosen as follows: two persons appointed by the governor; one person appointed by the president of the senate; and one person appointed by the speaker of the house. Except as provided in this section, the selection and terms of the policy office members shall be subject to the requirements of section 26-34. No member of the policy office shall act concurrently as the chief procurement officer. The members of the policy office shall devote such time to their duties as may be necessary for the proper discharge thereof.

(c) The policy office shall be assisted by employees of the department of accounting and general services, which shall provide at least one full time support staff and funding necessary to support the policy office.

(d) Members of the policy office shall be reimbursed for any expenses, including travel expenses, reasonably incurred in the performance of their duties. During the first year of the existence of the policy office, members who are not otherwise employees of the State or a county shall be allowed compensation at a rate of \$100 per day for each day's actual attendance at meetings.

(e) The chairperson of the policy office shall be elected annually by a majority of its members from among all of its members; provided that the state comptroller shall not be eligible to serve as the chairperson. If the chairperson is not a county officer or employee, the chairperson shall be allowed an additional compensation of \$50 per day for each day of actual attendance at board meetings.

§ -202 **Authority and duties of the policy office.** Except as otherwise provided in this chapter, the policy office shall have the authority and responsibility to adopt rules, consistent with this chapter, governing the procurement, management, control, and disposal of any and all goods, services, and construction. All rules shall be adopted in accordance with chapter 91. The policy office shall consider and decide matters of policy within the scope of this chapter including those referred to it by a chief procurement officer. The policy office shall have the power to audit and monitor the implementation of its rules and the requirements of this chapter, but shall not exercise authority over the award or administration of any particular contract, or over any dispute, claim, or litigation pertaining thereto.

§ -203 **Chief procurement officers.** The chief procurement officer for each of the following state entities and the several counties shall be:

- (1) The judiciary—the administrative director of the courts;
- (2) The senate—the president of the senate;
- (3) The house of representatives—the speaker of the house of representatives;
- (4) The office of Hawaiian affairs—its board of trustees;
- (5) The several counties—the respective finance directors of the several counties;
- (6) The University of Hawaii—the president of the University of Hawaii;
- (7) The department of education—the superintendent of education; and
- (8) The remaining departments of the executive branch of the State and all governmental bodies administratively attached to them—the administrator of the procurement office of the department of accounting and general services.

For purposes of applying this chapter to the judiciary, houses of the legislature, office of Hawaiian affairs, department of education, University of Hawaii, and



the several counties, unless otherwise expressly provided, "State" shall mean "judiciary," "state senate," "state house of representatives," "office of Hawaiian affairs," "department of education," "University of Hawaii," and "county," respectively.

§ **-204 Administrator of the procurement office.** (a) There shall be a procurement office within the department of accounting and general services, which shall be headed by the administrator of the procurement office. The administrator shall be the chief procurement officer for the governmental bodies of the executive branch other than the University of Hawaii and the department of education, and those governmental bodies administratively attached thereto. The administrator shall be a full-time public official. The administrator shall serve a term of four years, and shall be paid the salary established for deputies or assistants to department heads under section 26-53 without diminution during the administrator's term of office unless by general law applying to all deputies or assistants to department heads.

(b) The administrator shall be appointed by the governor from a list of no less than three and no more than five names submitted by the policy office. The appointment of the administrator shall require the advice and consent of the senate. The administrator may only be removed from office by the governor, provided the governor shall give prior notification of such removal to the chair of the policy office, the president of the senate, and the speaker of the house of representatives.

(c) The administrator shall have:

- (1) A minimum of five years experience in public procurement within twelve years preceding the date of appointment; and
- (2) Demonstrated executive and organizational ability.

(d) The procurement office shall be part of the office of the comptroller but the administrator shall operate independently of the comptroller and shall have final authority over all procurement operations. The comptroller shall provide appropriate support to permit the administrator to satisfy all of the administrator's responsibilities as the chief procurement officer.

§ **-205 Authority and duties of the chief procurement officer.** (a) For their respective jurisdictions and unless otherwise specifically provided in this chapter, each chief procurement officer shall serve as the central procurement officer and:

- (1) Procure or supervise the procurement of all goods, services, and construction;
- (2) Exercise general supervision and control over all inventories of goods;
- (3) Sell, trade, or otherwise dispose of surplus goods; and
- (4) Establish and maintain programs for the inspection, testing, and acceptance of goods, services, and construction.

(b) Consistent with the provisions of this chapter and rules adopted by the policy office to implement its provisions, the chief procurement officers may adopt operational procedures to assist in the performance of these duties and responsibilities.

§ **-206 Additional duties of the administrator of the procurement office.** In addition to the duties referred to in section -205, the administrator shall:

- (1) Perform periodic review of the procurement practices of all governmental bodies;
- (2) Assist, advise, and guide governmental bodies in matters relating to procurement;
- (3) Develop and administer a statewide procurement orientation and training program;
- (4) Develop, distribute, and maintain a procurement manual for all state procurement officials; and
- (5) Develop, distribute, and maintain a procurement guide for vendors wishing to do business with the State and its counties.

§ **-207 Centralization of procurement authority.** Except as otherwise provided in sections -208, -209, and -210, all rights, powers, duties, and authority relating to the procurement of goods, services, and construction, and the management, control, warehousing, sale, and disposal of goods, services, and construction now vested in, or exercised by, the governmental bodies of the State and counties are hereby transferred to the respective chief procurement officers.

§ **-208 Delegation of authority by the chief procurement officer.** Subject to the rules of the policy office, each chief procurement officer may delegate any authority or duty conferred upon the chief procurement officer by this chapter to designees or to any department, agency or official within their respective jurisdictions.

§ **-209 Authority to contract for certain services.** (a) For the purpose of procuring professional services, any governmental body of this State may act as a purchasing agency and contract on its own behalf for such service, subject to this chapter and rules adopted by the policy office. The purchasing agency shall consult with the chief procurement officer or the officer's designee when procuring these services.

(b) No department of the State, other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the housing finance and development corporation or the public utilities commission;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund, the contractors license board in any action involving the contractors recovery fund, and the trustees in any action involving the travel agency recovery fund;
- (6) To grand jury counsel;
- (7) To the office of Hawaiian affairs;
- (8) To the department of commerce and consumer affairs; provided that its attorney shall be responsible for the prosecution of consumer complaints;

- (9) To the employees retirement system;
- (10) To the Hawaiian home lands trust individual claims review panel; or
- (11) In the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines representation or counsel, or approves a department's expenditures; provided that the governor thereupon waives the provision of this section.

For the purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed as a grand jury counsel, the department of commerce and consumer affairs in prosecution of consumer complaints, or the Hawaiian home lands trust individual claims review panel, shall become a deputy attorney general.

§ **-210 Exemptions.** Unless otherwise provided by rules of the policy office, the following goods, services, and construction need not be procured by a chief procurement officer, but shall nevertheless be procured by an appropriate purchasing agency subject to the requirements of this chapter and the rules adopted by the policy office:

- (1) Works of art for museum and public display, which are generally sole source procurements;
- (2) Published books, maps, periodicals, and technical pamphlets, which are generally small purchases;
- (3) Meats and foodstuffs for the Kalaupapa settlement; and
- (4) Goods purchased by the State for commercial resale to the public, which procurements shall also be exempt from the competitive source selection methods contained in part III of this chapter.

§ **-211 Procurement rules.** (a) The procurement policy office shall adopt all rules necessary to carry out the purposes of this chapter and to implement its provisions in accordance with chapter 91. The policy office shall not delegate its power to adopt rules.

(b) No rule shall change any commitment, right, or obligation of the State or of a contractor under a contract in existence on the effective date of such rule.

§ **-212 Collection of data concerning public procurement.** The chief procurement officer and the heads of all purchasing agencies shall cooperate in the preparation of statistical data concerning the procurement, usage, and disposition of all goods, services, and construction, and employ such trained personnel as may be necessary to carry out this function. All using agencies shall furnish such reports as the chief procurement officer may require concerning usage, needs, and stocks on hand, and the chief procurement officer may prescribe forms to be used by the using agencies in requisitioning, ordering, and reporting of goods, services, and construction.

§ **-213 Procurement advisory groups.** (a) The chief procurement officer may appoint advisory groups to assist in the development of specifications or procurement in specific areas, and any other matters within the authority of the chief procurement officer.

(b) Members of procurement advisory groups may be reimbursed for expenses incurred in the performance of their duties, subject to such expenditure limitations prescribed by the policy office and applicable law.

§ **-214 Duties of the attorney general.** The attorney general, or such officer as the attorney general may designate, shall serve as legal counsel and provide necessary legal services to the policy office and chief procurement officer.

### PART III. SOURCE SELECTION AND CONTRACT FORMATION

§ **-301 Methods of source selection.** Unless otherwise authorized by law, all contracts shall be awarded by competitive sealed bidding pursuant to section -302, except as provided in:

- (1) Section -303 (Competitive sealed proposals);
- (2) Section -304 (Professional services procurement);
- (3) Section -305 (Small purchases);
- (4) Section -306 (Sole source procurement); and
- (5) Section -307 (Emergency procurements).

§ **-302 Competitive sealed bidding.** (a) Contracts shall be awarded by competitive sealed bidding except as otherwise provided in section -301. Awards of contracts by competitive sealed bidding may be made after single or multistep bidding. Competitive sealed bidding does not include negotiations with bidders after the receipt and opening of bids. Award is based on the criteria set forth in the invitation for bids.

(b) An invitation for bids shall be issued, and shall include a purchase description and all contractual terms and conditions applicable to the procurement. If the invitation for bids is for construction, it shall specify that all bids include the name of each person or firm to be engaged by the bidder as a joint contractor or subcontractor in the performance of the contract and the nature and scope of the work to be performed by each. Construction bids which do not comply with requirement may be accepted if the chief procurement officer or rules of the policy office conclude that acceptance is in the best interest of the public.

(c) Adequate public notice of the invitation for bids shall be given a reasonable time before the date set forth in the invitation for the opening of bids. The policy office shall adopt rules which specify:

- (1) The form that the notice is to take;
- (2) What constitutes a reasonable interim between publication and bid opening; and
- (3) How notice may be published, including publication in a newspaper of general circulation, notice by mail to all persons on any applicable bidders mailing list, publication by any public or private telecommunication information network, or any other method of publication it deems to be effective.

(d) Bids shall be opened publicly in the presence of one or more witnesses, at the time and place designated in the invitation for bids. The amount of each bid and other relevant information specified by rule, together with the name of each bidder shall be recorded. The record and each bid shall be open to public inspection.

(e) Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter or by rules adopted by the policy office.

(f) Bids shall be evaluated based on the requirements set forth in the invitation for bids. These requirements may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered

in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.

(g) Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of invitations for bids, awards, or contracts based on such bid mistakes, shall be permitted in accordance with rules adopted by the policy office. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of the public or to fair competition shall be permitted. Except as otherwise provided by rule, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the chief procurement officer or head of a purchasing agency.

(h) The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event all bids exceed available funds as certified by the appropriate fiscal officer, the head of the purchasing agency responsible for the procurement in question is authorized in situations where time or economic considerations preclude resolicitation of work of a reduced scope to negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsible and responsive bidder, in order to bring the bid within the amount of available funds.

(i) When it is not practicable to initially prepare a purchase description to support an award based on price, an invitation for bids, which requests the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation, may be used. If a multi-step sealed bidding process is used, the notice and the invitation for bids shall describe each step to be used in soliciting, evaluating, and selecting unpriced offers.

**§ -303 Competitive sealed proposals.** (a) When, under rules adopted pursuant to this chapter, the chief procurement officer, the head of a purchasing agency, or a designee of either officer above the level of procurement officer determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous, a contract may be entered into by competitive sealed proposals. Competitive sealed proposals may be utilized for the procurement of specified types of goods, services, or construction without necessity for the written determination otherwise required by this subsection if the policy office provides by rule that it is either not practicable or not advantageous to the State to procure the specified types of goods, services, or construction by competitive sealed bidding. The policy office shall adopt rules pertaining to the acquisition of such services through the use of competitive sealed proposals.

(b) Proposals shall be solicited through a request for proposals.

(c) Notice of the request for proposals shall be given in the same manner as provided in section -302(c).

(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared in accordance with rules adopted by the policy office and shall be open for public inspection after contract award.

(e) The request for proposals shall state the relative importance of price and other evaluation factors.

(f) As provided in the request for proposals, and under rules adopted by the policy office, discussions may be conducted with responsible offerors who

submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(g) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

§ **-304 Procurement of professional services.** (a) Except as authorized under sections -305, -306, and -307, professional services shall be procured in accordance with section -303, unless:

- (1) The purchasing agency secures the approval of the chief procurement officer to utilize the procedures set out in subsection (e) through (g) before proceeding with the procurement; or
- (2) The head of the purchasing agency determines in writing that subsections (e) through (g) must be used because all of the provisions of section -303 cannot be satisfied within the time available to complete the procurement because of the urgency of the need to procure such services.

The chief procurement officer shall have ten days after receiving the request of the purchasing agency under paragraph (1) to act upon the request; if a determination is not made within that period, the purchasing agency may proceed with the procurement. The chief procurement officer's determination shall be based upon criteria established by rules of the policy office.

(b) All requirements for professional services shall be publicly announced and contracts for such services shall be awarded on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(c) At least once annually, the chief procurement officer shall give written public notice to invite persons engaged in providing professional services to submit current statements of qualifications and expressions of interest to the head of each purchasing agency requiring such services. Additional notices may be given if the response to the initial notice is inadequate or does not result in adequate representation of available sources. The chief procurement officer may specify a uniform format for statements of qualifications. Persons may amend these statements by filing a new statement prior to the date designated for submission.

(d) At least annually, the head of each purchasing agency shall form an initial review committee consisting of a minimum of three employees from the agency or from another governmental body, with sufficient education, training, and licenses or credentials for each type of professional service which may be required. The committee shall review and evaluate all submissions and other pertinent information, including references and reports, and prepare a list of qualified persons to provide such services.

(e) Contracts for professional services of \$10,000 or more shall be awarded only after a screening committee evaluates the statements of qualification and performance data of those persons on the list prepared pursuant to subsection (d) along with any other pertinent information, including references and reports. The

screening committee shall be comprised of a minimum of three employees of the purchasing agency for the particular project with sufficient education, training, and licenses or credentials in the area of the services required. If the purchasing agency and using agency are different, the committee shall include at least one qualified employee from the using agency. The committee shall be designated by the head of the purchasing agency and, if appropriate, the head of the using agency. If qualified employees are not available from these agencies, the officers may designate employees of other governmental bodies. Unless fewer than three submissions have been received, the screening committee shall conduct discussions with at least three persons regarding the services which are required and the services they are able to provide. The screening committee shall evaluate each submission based on criteria established and published by the screening committee for the particular project. The committee shall provide the head of the purchasing agency with the names of the three persons who the committee concludes is the most qualified to provide the services required for the project, with a summary of each of their qualifications.

(f) The head of the purchasing agency shall evaluate the summary of qualifications for each of the three persons provided by the screening committee and may conduct additional discussions with any of them. The head of the purchasing agency shall then rank the three persons in order of preference. The procurement officer of the purchasing agency requiring the services shall negotiate a contract with the first ranked person, including a rate of compensation which is fair and reasonable, established in writing, and based upon the estimated value, scope, complexity, and nature of the services to be rendered. If the procurement officer is unable to negotiate a satisfactory contract with the first ranked person, negotiations with that person shall be formally terminated. The procurement officer shall then undertake negotiations with the second person on the list. Failing accord with the second person, the procurement officer shall formally terminate negotiations. The procurement officer shall then undertake negotiations with the last person on the list. If the procurement officer is unable to negotiate a contract at a fair and reasonable price, the procurement officer may request that the screening committee submit the names of three additional persons for the head of the purchasing agency to rank, and resume negotiations in the same manner provided in this subsection.

(g) Contracts for professional services of less than \$10,000 may be negotiated by a procurement officer with any two persons who appear on the list of qualified persons established pursuant to subsection (d). Negotiations shall be conducted in the manner set forth in subsection (f) and the officer may determine the order in which negotiations are held.

(h) If professional services are procured pursuant to subsection (a)(2), within five working days after the vendor is selected, the head of the purchasing agency shall transmit a written report to the chief procurement officer detailing the bases for the determination that sufficient time was not available to procure the services in accordance with all of the requirements of section -303. If the chief procurement officer determines in accordance with criteria established by the rules of the policy office that sufficient time was available to procure the services in accordance with all of the requirements of section -303, the contract shall be terminated in accordance with -707.

- § -305 Small purchases. Any procurement of
- (1) Less than \$10,000 for supplies or services; or
  - (2) Less than \$25,000 for construction;

may be made in accordance with procedures set forth in rules adopted by the policy office which are designed to ensure administrative simplicity and as much competition as is practicable; provided that multiple expenditures shall not be created at the inception of a transaction or project so as to evade the requirements of this chapter; and provided further that procurement requirements shall not be artificially divided or parceled so as to constitute a small purchase under this section.

§ **-306 Sole source procurement.** (a) A contract may be awarded for goods, services, or construction without competition when, under rules adopted by the policy office, the chief procurement officer, the head of a purchasing agency, or a designee of either determines in writing that there is only one source for the required good, service, or construction. A contract may be awarded under this section only after the chief procurement officer has approved the sole source procurement in writing.

(b) The policy office shall adopt rules requiring the chief procurement officer and the purchasing agency to post, in an area accessible to the public, a notice of intent to issue a sole source contract. The rules shall provide for the posting of the notice sufficiently in advance of the issuance of the contract to allow a reasonable opportunity for objections to be filed, and shall specify the contents of the notice, including but not limited to the name of the party to be awarded the contract, the date on which the contract is to be issued, a statement indicating that any person may file written objections to the issuance of the contract, the name and address of the person or agency with whom the objections are to be filed, and the date by which the objections are to be filed. The rules shall also provide procedures for the disposition of objections.

(c) A purchasing agency shall submit a written request limited to evidence supporting the request for a sole source determination. The chief procurement officer may require the submission of cost or pricing data in connection with an award proposed under this section.

(d) The chief procurement officer may approve the cost or pricing data, or may negotiate with the sole source vendor for price, terms, and conditions that are in the State's best interest.

§ **-307 Emergency procurements.** (a) The head of a purchasing agency may obtain a good, service, or construction essential to meet an emergency by means other than specified in this chapter when the following conditions exist:

- (1) A situation of an unusual or compelling urgency creates a threat to life, public health, welfare, or safety by reason of major natural disaster, epidemic, riot, fire, or such other reason as may be determined by the head of that purchasing agency;
- (2) The emergency condition generates an immediate and serious need for goods, services, or construction that cannot be met through normal procurement methods and the government would be seriously injured if the purchasing agency is not permitted to employ the means it proposes to use to obtain the goods, services, or construction; and
- (3) Without the needed good, service, or construction, the continued functioning of government, the preservation or protection of irreplaceable property, or the health and safety of any person will be seriously threatened.



(b) The emergency procurement shall be made with such competition as is practicable under the circumstances and, where practicable, approval from the chief procurement officer shall be obtained prior to the procurement. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

§ **-308 Cancellation of invitations for bids or requests for proposals.** An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the governmental body which issued the invitation, request, or other solicitation, in accordance with rules adopted by the policy council. The reasons therefor shall be made part of the contract file.

§ **-309 Contract not binding unless funds available.** (a) No contract awarded pursuant to section -302, -303, or -306, shall be binding or of any force and effect unless the comptroller, the director of finance of a county, or the chief financial officer of the University of Hawaii or the department of education, as the case may be, endorses thereon a certificate that there is an appropriation or balance of an appropriation over and above all outstanding contracts, sufficient to cover the amount required by the contract; provided that if the contract is a multi-term contract, the comptroller, director of finance, or chief financial officer shall only be required to certify that there is an appropriation or balance of an appropriation over and above all outstanding contracts, that is sufficient to cover the amount required to be paid under the contract during the fiscal year or remaining portion of the fiscal year of each term of the multi-year contract; provided further that this section shall not apply to any contract under which the total amount to be paid to the contractor cannot be accurately estimated at the time the contract is to be awarded.

(b) In any contract involving not only state or county funds but supplemental funds from the federal government, this section shall be applicable only to that portion of the contract price as is payable out of state or county funds. As to the portion of the contract price as is expressed in the contract to be payable out of federal funds, the contract shall be construed to be an agreement to pay the portion to the contractor, only out of federal funds to be received from the federal government. This subsection shall be liberally construed so as not to hinder or impede the State in contracting for any project involving financial aid from the federal government.

§ **-310 Responsibility of bidders and offerors.** (a) Unless the policy office, by rules, specifies otherwise, before submitting a bid, a prospective bidder, not less than ten calendar days prior to the day designated for opening bids, shall give written notice of the intention to bid to the procurement officer responsible for that particular procurement. The procurement officer shall then determine whether the prospective bidder has the financial ability to deliver the goods or perform the work required, and whether the bidder has experience and competence in delivering similar goods or performing similar work. For this purpose, the officer, in the officer's discretion, may require any prospective bidder to submit answers, under oath, to questions contained in a standard form of questionnaire to be prepared by the policy office, setting forth a complete statement of the experience of the prospective bidder and the bidder's organization in delivering similar goods or performing similar work and a statement of the equipment proposed to be used, together with adequate proof of availability of the

equipment. Whenever it appears to the officer, from answers to the questionnaire or otherwise, that the prospective bidder is not fully qualified and able to perform the intended work, the officer, after affording the prospective bidder an opportunity to be heard and if still of the opinion that the bidder is not fully qualified to perform the work, shall refuse to receive or consider any bid offered by the prospective bidder. All information contained in the answers to the questionnaire shall be and remain confidential, and any government officer or employee who knowingly divulges or permits to be divulged any such information to any person not lawfully entitled thereto shall be fined not more than \$250. Questionnaires so submitted shall be returned to the bidders after having served their purpose.

(b) A written determination of nonresponsibility of a bidder or offeror based upon the information collected and the hearing conducted by the procurement officer shall be made by the head of the purchasing agency, in accordance with rules adopted by the policy office. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such bidder or offeror. The decision of the head of the purchasing agency shall be final unless the bidder or offeror applies for administrative review pursuant to section -709.

(c) Information furnished by a bidder or offeror pursuant to this section shall not be disclosed to any person not lawfully entitled thereto without prior written consent by the bidder or offeror.

§ -311 **Prequalification of suppliers.** (a) The policy office may adopt rules to prequalify prospective suppliers for particular types of goods, services, and construction or to limit a solicitation to prequalified vendors to meet statutory or licensing requirements applying to the solicitation or when the time necessary to verify vendor qualifications would jeopardize timely award of contracts.

(b) A prospective supplier may be prequalified for a particular type of goods or services. Solicitation mailing lists of potential contractors shall include, but shall not be limited to, prequalified suppliers.

§ -312 **Cost or pricing data.** (a) A contractor, except as provided in subsection (c), shall submit cost or pricing data and shall certify that, to the best of the contractor's knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of a mutually determined specified date prior to the date of:

- (1) The pricing of any contract awarded by competitive sealed proposals or pursuant to the sole source procurement authority, where the total contract amount is expected to exceed an amount established by rules adopted by the policy office; or
- (2) The pricing of any change order or contract modification that is expected to exceed an amount established by rules adopted by the policy office.

(b) Any contract, change order, or contract modification under which a certificate is required shall contain a provision that the price to the State, including profit or fee, shall be adjusted to exclude any significant sums by which the State finds that the price was increased because the contractor furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between the parties.

(c) The requirements of this section shall not apply to contracts:

- (1) Where the contract price is based on adequate price competition;

- (2) Where the contract price is based on established catalog prices or market prices;
- (3) Where the contract prices are set by law or rule; or
- (4) Where it is determined in writing in accordance with rules adopted by the policy office that the requirements of this section may be waived, and the reasons for the waiver are stated in writing.

§ **-313 Types of contracts.** (a) Subject to the limitations of this section, any type of contract that will promote the State's best interests may be used.

(b) Cost-reimbursement and cost-plus-a-percentage-of-cost contracts may be used only when the chief procurement officer determines in writing that such a contract is likely to be less costly than any other type of contract or that it is impracticable to obtain the goods, services, or construction required except by means of such a contract. Cost-reimbursement and cost-plus-a-percentage-of-cost contracts shall not be used if their use would jeopardize the receipt of federal assistance moneys or reduce the amount of such assistance under any applicable federal statute or regulation.

(c) In addition to the requirements of subsections (a) and (b), a cost-plus-a-percentage-of-cost contract may not be awarded unless:

- (1) Notice is given to the head of the compliance audit unit, president of the senate, speaker of the house of representatives, and the chairpersons of the senate ways and means and house finance committees; and
  - (2) Notice is conspicuously posted in an area accessible to the public in the office of the chief procurement officer and available for public inspection during normal business hours.
- (d) The policy office shall adopt rules to implement this section.

§ **-314 Approval of accounting system.** Except with respect to firm fixed-price contracts, no contract shall be used unless it has been determined in writing by the chief procurement officer, the head of a purchasing agency, or a designee of either officer that:

- (1) The proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and
- (2) The proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted accounting principles.

§ **-315 Multi-term contracts.** (a) Unless otherwise provided by law, a contract for goods or services may be entered into for any period of time deemed to be in the best interests of the governmental body, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.

(b) Prior to the utilization of a multi-term contract, it shall be determined in writing:

- (1) That estimated requirements cover the period of the contract and are reasonably firm and continuing;
- (2) That such a contract will serve the best interests of the governmental body by encouraging effective competition or otherwise promoting economies in procurement; and

- (3) That sufficient funds to pay for the initial term of the contract are available and the funds necessary for the remaining terms of the contract are likely to be available from sources which are identified in writing.

(c) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled and the contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of goods or services delivered under the contract. The cost of cancellation may be paid from any appropriations available for such purposes.

§ **-316 Right to inspect plant.** The State, at reasonable times, may inspect the part of the plant or place of business of a contractor or any subcontractor that is related to the performance of a contract awarded or to be awarded by the State.

§ **-317 Right to audit records.** (a) The purchasing agency, at reasonable times and places, may audit the books and records of any person who has submitted cost or pricing data pursuant to section -312 to the extent that such books and records relate to such cost or pricing data. Any person who receives a contract, change order, or contract modification for which cost or pricing data is required, shall maintain such books and records that relate to such cost or pricing data for three years from the date of final payment under the contract, unless another period is otherwise authorized in writing.

(b) The purchasing agency shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a fixed-price contract to the extent that such books and records relate to the performance of such contract or subcontract. The books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract, unless another period is otherwise authorized in writing.

§ **-318 Finality of determinations.** The determinations required by sections -302(g), -303(a), -303(g), -306, -307, -310, -312(c), -313, and -314 shall be final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

§ **-319 Reporting of anticompetitive practices.** When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the attorney general.

§ **-320 Retention of procurement records.** All procurement records shall be retained and disposed of in accordance with chapter 94 and records retention guidelines and schedules approved by the comptroller.

§ **-321 Record of procurement actions.** (a) The chief procurement officer shall maintain a record of all contracts made under sections -306 and -307 for a minimum of five years. The record shall contain:

- (1) Each contractor's name;
- (2) The amount and type of each contract; and
- (3) A listing of the goods, services, or construction procured under each contract.

(b) A copy of the record shall be submitted to the legislature on an annual basis. The record shall be available for public inspection.

§ **-322 Multiple awards.** The policy office may adopt rules authorizing the use and prescribing the manner in which goods, services, or construction may be procured through multiple awards.

§ **-323 Bid security.** (a) Unless the policy office determines otherwise by rules, bid security shall only be required for construction contracts to be awarded pursuant to sections -302 and -303 and when the price of the contract is estimated by the procurement officer to exceed \$100,000 or, if the contract is for goods or services, the purchasing agency secures the approval of the chief procurement officer. Bid security shall be a bond provided by a surety company authorized to do business in the State, or the equivalent in cash, or otherwise supplied in a form specified in rules.

(b) Bid security shall be in an amount equal to at least five per cent of the amount of the bid, provided that when the amount bid exceeds \$50,000, the bid security shall be in a sum not less than \$2,500, plus two per cent of the amount in excess of \$50,000. Notwithstanding the foregoing, if the contract is for construction, then the amount of the bid security shall be in a sum not less than \$3,500, plus two per cent of the amount in excess of \$100,000.

(c) Unless, pursuant to rules, it is determined that a failure to provide bid security is nonsubstantial, all bids required to be accompanied by bid security shall be rejected when not accompanied by the required bid security.

(d) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, except as provided in section -302(g). If a bidder is permitted to withdraw its bid before award, no action shall be had against the bidder or the bid security.

§ **-324 Contract performance and payment bonds.** (a) Unless the policy office determines otherwise by rules, the following bonds or security shall be delivered to the purchasing agency and shall become binding on the parties upon the execution of the contract if the contract which is awarded exceeds \$25,000 and is for construction, or the purchasing agency secures the approval of the chief procurement officer:

- (1) A performance bond in a form prescribed by the rules of the policy office, executed by a surety company authorized to do business in this State or otherwise secured in a manner satisfactory to the purchasing agency, in an amount equal to one hundred per cent of the price specified in the contract;
- (2) A payment bond in a form prescribed by the rules of the policy office, executed by a surety company authorized to do business in this State or otherwise secured in a manner satisfactory to the purchasing agency, for the protection of all persons supplying labor and material to the contractor for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred per cent of the price specified in the contract; or
- (3) A performance and payment bond which satisfies all of the requirements of paragraphs (1) and (2).

(b) The policy office may adopt rules that authorize the head of a purchasing agency to reduce the amount of performance and payment bonds.

(c) Nothing in this section shall be construed to limit the authority of the

chief procurement officer to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection (a).

(d) Every person who has furnished labor or material to the contractor for the work provided in the contract, in respect of which a payment bond is furnished under this section, and who has not been paid in full therefor after two months from the completion and final settlement of any contract, may institute an action against the contractor and its sureties, and have their rights and claims adjudicated in the action, and judgment rendered thereon; subject to the State's priority on its performance bond. If the full amount of the liability of the sureties on the bond is insufficient to pay the full amount of the claims, then, after paying the full amount due the State, the remainder shall be distributed pro rata among the claimants.

(e) Every suit instituted upon a payment bond shall be brought in the circuit court of the circuit in which the contract was to be performed, but no such suit shall be commenced after the expiration of one year after the completion and final settlement of the contract. The obligee named in the bond need not be joined as a party in any such suit.

§ **-325 Bond forms and copies.** (a) The policy office shall adopt rules specifying the form of the bonds required by this chapter.

(b) Any person may request and obtain from the State a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

§ **-326 Fiscal responsibility.** Every contract modification, change order, or contract price adjustment under a contract shall be subject to prior written certification by the appropriate fiscal officer for funding the project or the contract, as to the effect of the contract modification, change order, or adjustment in contract price on the total project budget or the total contract budget. In the event that the certification of the fiscal officer discloses a resulting increase in the total project budget or the total contract budget, the procurement officer shall not execute or make such contract modification, change order, or adjustment in contract price unless sufficient funds are available therefor, or the scope of the project or contract is adjusted so as to permit the degree of completion that is feasible within the total project budget or total contract budget as it existed prior to the contract modification, change order, or adjustment in contract price under consideration; provided, that with respect to the validity, as to the contractor, of any executed contract modification, change order, or adjustment in contract price which the contractor has reasonably relied upon, it shall be presumed that there has been compliance with this section.

#### PART IV. SPECIFICATIONS

§ **-401 Duties of the policy office.** The policy office shall adopt rules governing the preparation, maintenance, and content of specifications for goods, services, and construction required by the State.

§ **-402 Duties of the chief procurement officer.** The chief procurement officer shall prepare, issue, revise, maintain, and monitor the use of specifications for goods, services, and construction required by the State.

§ -403 Exempted items. Specifications for goods, services, or construction items procured under section -209, or those exempted pursuant to section -210, may be prepared by a purchasing agency in accordance with this chapter and rules adopted hereunder.

§ -404 Relationship with using agencies. The chief procurement officer shall obtain expert advice and assistance from personnel of using agencies in the development of specifications and may delegate in writing to a using agency the authority to prepare and utilize its own specifications.

§ -405 Maximum practicable competition. (a) All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the State's needs, and shall not be unduly restrictive.

(b) Specifications, to the extent practicable, shall emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the State.

(c) The State shall procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided, to the extent practicable.

(d) Outside contractors may be utilized to prepare specifications and work statements in the development of a solicitation. Contractors paid for those services shall be precluded from bidding on or receiving a contract when they participated in any way in the development of the solicitation package or any resulting contract.

§ -406 Specifications prepared by architects and engineers. The requirements of this part regarding the purposes and nonrestrictiveness of specifications shall apply to all specifications, including, but not limited to, those prepared by architects, engineers, designers, and drafting professionals for public contracts.

PART V. MODIFICATION AND TERMINATION OF CONTRACTS

§ -501 Contract clauses and their administration. (a) The policy office shall adopt rules requiring the inclusion of contract clauses providing for adjustments in prices, time of performance, or other contract provisions, as appropriate, and covering the following subjects:

- (1) The unilateral right of the governmental body to order in writing:
  - (A) Changes in the work within the scope of the contract; and
  - (B) Changes in the time of performance of the contract that do not alter the scope of the contract work;
- (2) Variations occurring between estimated quantities of work in a contract and actual quantities;
- (3) Suspension of work ordered by the governmental body; and
- (4) Site conditions differing from those indicated in the contract, or ordinarily encountered, except that differing site conditions clauses established by these rules need not be included in a contract:
  - (A) When the contract is negotiated;
  - (B) When the contractor provides the site or design; or
  - (C) When the parties have otherwise agreed with respect to the risk of differing site conditions.

(b) Adjustments in price permitted by rules adopted under subsection (a) shall be computed in one or more of the following ways:

- (1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- (2) By unit prices specified in the contract or subsequently agreed upon;
- (3) By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
- (4) In such other manner as the contracting parties may mutually agree; or
- (5) In the absence of agreement by the parties, by a unilateral determination by the governmental body of the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as computed by the governmental body in accordance with applicable sections of the rules adopted under section -601 and subject to the provisions of part VII.

A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of section -312.

(c) The policy office shall adopt rules requiring the inclusion in contracts of clauses providing for prompt payment by contractors to subcontractors. The rules shall provide that:

- (1) Any money, other than retainage, paid to a contractor shall be dispersed to subcontractors within ten days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and
- (2) Upon final payment to the contractor, full payment to the subcontractor, including retainage, shall be made within ten days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.

(d) The policy office shall adopt rules requiring the inclusion in contracts of clauses providing for appropriate remedies and covering the following subjects:

- (1) Liquidated damages as appropriate;
- (2) Specified excuses for delay or nonperformance;
- (3) Termination of the contract for default; and
- (4) Termination of the contract in whole or in part for the convenience of the governmental body.

(e) The chief procurement officer or the head of a purchasing agency may vary the clauses which may be required to be included in contracts under the rules adopted under subsections (a), (c), and (d); provided that any variations are supported by a written determination that states the circumstances justifying such variations, and provided that notice of any such material variation be stated in the invitation for bids or request for proposals when the contract is awarded under section -302 or -303.

## PART VI. COST PRINCIPLES

§ -601 **Cost principles rules required.** The policy office shall adopt rules setting forth cost principles which shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions which provide for the reimbursement of costs, provided that if a written determination is approved at a level above the procurement officer, such cost principles may be modified by contract.



## PART VII. LEGAL AND CONTRACTUAL REMEDIES

## § -701 Authority to resolve protested solicitations and awards. (a)

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the chief procurement officer or the head of a purchasing agency. The protest shall be submitted in writing within five working days after the aggrieved person knows or should have known of the facts giving rise thereto.

(b) The chief procurement officer, the head of a purchasing agency, or a designee of either officer, prior to the commencement of an action in court concerning the controversy, may settle and resolve a protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract. This authority shall be exercised in accordance with rules adopted by the policy office.

(c) If the protest is not resolved by mutual agreement, the chief procurement officer, the head of a purchasing agency, or designee of either officer shall promptly issue a decision in writing. The decision shall:

- (1) State the reasons for the action taken; and
- (2) Inform the protestor of the protestor's right to review as provided in this part.

(d) A copy of the decision under subsection (c) shall be mailed or otherwise furnished immediately to the protestor and any other party intervening.

(e) A decision under subsection (c) shall be final and conclusive, unless fraudulent, or any person adversely affected by the decision commences an administrative proceeding under section -709.

(f) In the event of a timely protest under subsection (a), no further action shall be taken on the solicitation or the award of the contract until the chief procurement officer, after consultation with the head of the using agency, or the head of the purchasing agency, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the State.

(g) In addition to any other relief, when a protest is sustained and the protesting bidder or offeror should have been awarded the contract under the solicitation but is not, then the protesting bidder or offeror shall be entitled to the reasonable costs incurred in connection with the solicitation, including bid preparation costs other than attorney's fees.

## § -702 Authority to debar or suspend. (a)

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the chief procurement officer or the head of a purchasing agency, after consultation with the using agency and the department of the attorney general, may debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years. The same officer, after consultation with the using agency and the department of the attorney general, may suspend a person from consideration for award of all public contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding three months. The authority to debar or suspend shall be exercised in accordance with the procedures prescribed by rules adopted by the policy office.

(b) The causes for debarment or suspension include the following:

- (1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
- (2) Conviction under state or federal statutes relating to embezzlement,

theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a contractor;

- (3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
- (4) Violation of contract provisions, as set forth below, of a character which is regarded by the chief procurement officer or the head of a purchasing agency to be so serious as to justify debarment action:
  - (A) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
  - (B) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
- (5) Any other cause the chief procurement officer or the head of a purchasing agency determines to be so serious and compelling as to affect responsibility as a contractor, including debarment by another governmental entity for any cause listed in the rules of the policy office; and
- (6) Violation of the ethical standards set forth in chapter 84 and its implementing rules, or the charters and ordinances of the several counties and their implementing rules.

(c) The chief procurement officer or the head of a purchasing agency shall issue a written decision to debar or suspend. The decision shall:

- (1) State the reasons for the action taken; and
- (2) Inform the debarred or suspended person involved of its rights to review as provided in this part.

(d) A copy of the decision under subsection (c) shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other party intervening.

(e) The chief procurement officer shall distribute a list to all governmental bodies containing the names of persons or firms debarred or suspended from consideration for award of all public contracts by the State.

(f) A decision under subsection (c) shall be final and conclusive, unless fraudulent, or the debarred or suspended person commences an administrative proceeding under section -709.

**§ -703 Authority to resolve contract and breach of contract controversies.** (a) This section applies to controversies between a governmental body and a contractor which arise under, or by virtue of, a contract between them, including, without limitation, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.

(b) The chief procurement officer, the head of a purchasing agency, or a designee of either officer is authorized, prior to commencement of an action in a court concerning the controversy, to settle and resolve a controversy described in subsection (a). This authority shall be exercised in accordance with rules adopted by the policy office.

(c) If such a controversy is not resolved by mutual agreement, the chief procurement officer, the head of a purchasing agency, or the designee of either officer shall promptly issue a decision in writing. The decision shall:

- (1) State the reasons for the action taken; and
- (2) Inform the contractor of its right to initiate a judicial action as provided in this part.
- (d) A copy of the decision under subsection (c) shall be mailed or otherwise furnished immediately to the contractor.
- (e) The decision under subsection (c) shall be final and conclusive unless fraudulent, or the contractor commences a judicial action in accordance with section -711.
- (f) If the chief procurement officer, the head of the purchasing agency, or the designee of either officer does not issue the written decision required under subsection (c) within ninety days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision had been received.

§ **-704 Exclusivity of remedies.** The procedures and remedies provided for in this part, and the rules adopted by the policy office, shall be the exclusive means available for persons aggrieved in connection with the solicitation or award of a contract, a suspension or debarment proceeding, or in connection with a contract controversy, to resolve their claims or differences. The contested case proceedings set out in chapter 91 shall not apply to protested solicitations and awards, debarments or suspensions, or the resolution of contract controversies.

§ **-705 Solicitations or awards in violation of law.** The provisions of section -706 and section -707 apply where it is determined administratively under sections -701, -703, and -709, or upon judicial review or action under sections -710 and -711, that a solicitation or award of a contract is in violation of the law.

§ **-706 Remedies prior to an award.** If prior to award it is determined that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall be:

- (1) Canceled; or
- (2) Revised to comply with the law.

§ **-707 Remedies after an award.** If after an award it is determined that a solicitation or award of a contract is in violation of law, then:

- (1) If the person awarded the contract has not acted fraudulently or in bad faith:
  - (A) The contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of the State; or
  - (B) The contract may be terminated and the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract, plus a reasonable profit, prior to the termination;
- (2) If the person awarded the contract has acted fraudulently or in bad faith:
  - (A) The contract may be declared null and void; or
  - (B) The contract may be ratified and affirmed if the action is in the best interests of the State, without prejudice to the State's rights to such damages as may be appropriate.

§ **-708 Interest.** Interest on amounts ultimately determined to be due to a contractor or the State shall be payable at the statutory rate applicable to

judgments against the State under chapter 662 from the date the claim arose through the date of decision or judgment, whichever is later.

§ **-709 Administrative proceedings for review.** (a) The several hearings officers appointed by the director of the department of commerce and consumer affairs pursuant to section 26-9(f) shall have jurisdiction to review and determine de novo any request from any bidder, offeror, contractor or governmental body aggrieved by a determination of the chief procurement officer, head of a purchasing agency, or a designee of either officer under sections -310, -701, or -702.

(b) Hearings to review and determine any request made pursuant to subsection (a) shall commence within twenty-one calendar days of receipt of the request. The hearings officers shall have power to issue subpoenas, administer oaths, hear testimony, find facts, make conclusions of law, and issue a written decision which shall be final and conclusive unless a person or governmental body adversely affected by the decision commences an appeal in the supreme court under section -710.

(c) The party initiating the proceeding shall have the burden of proof, including the burden of producing evidence as well as the burden of persuasion. The degree or quantum of proof shall be a preponderance of the evidence. All parties to the proceeding shall be afforded an opportunity to present oral or documentary evidence, conduct cross-examination as may be required, and argument on all issues involved. The rules of evidence shall be strictly adhered to.

(d) The hearings officers shall ensure that a record of each proceeding which includes the following is compiled:

- (1) All pleadings, motions, intermediate rulings;
- (2) Evidence received or considered, including oral testimony, exhibits, and a statement of matters officially noticed;
- (3) Offers of proof and rulings thereon;
- (4) Proposed findings of fact;
- (5) A recording of the proceeding which may be transcribed if judicial review of the written decision is sought under section -710.

(e) No action shall be taken on a solicitation or an award of a contract while a proceeding is pending, if the procurement was previously stayed under section -701(f).

(f) Hearings officers shall decide whether the determinations of the chief procurement officer or the head of the purchasing agency, or their respective designees were in accordance with the Constitution, statutes, regulations, and the terms and conditions of the solicitation or contract.

(g) The policy office shall adopt such other rules as may be necessary to ensure that the proceedings conducted pursuant to this section afford all parties an opportunity to be heard.

§ **-710 Judicial review.** (a) Any person or governmental body aggrieved by a final decision of a hearings officer under section -709 may apply for judicial review of that decision. The proceedings for review shall be instituted in the supreme court.

(b) An application for judicial review shall not operate as a stay of the decision rendered under section -709.

(c) Within twenty calendar days of the filing of an application for judicial review in the supreme court, the hearing officer shall transmit the record of the administrative proceedings to the supreme court.

(d) The review shall be scheduled as expeditiously as practicable. It shall be conducted on the record of the administrative proceedings, and briefs and oral argument. No new evidence shall be introduced in the appellate court, except that the court may, if evidence is offered which is clearly newly discovered evidence and material to the just decision of the appeal, admit the same.

(e) Upon review of the record the court may affirm the decision of the hearings officer issued pursuant to section -709 or remand the case with instructions for further proceedings; or it may reverse or modify the decision and order if substantial rights may have been prejudiced because the administrative findings, conclusions, decisions, or orders are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority or jurisdiction of the chief procurement officer or head of the purchasing agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

§ -711 **Judicial action.** (a) A person aggrieved by a decision issued pursuant to section -703 by a state chief procurement officer or head of a purchasing agency may initiate an action under section 661-1.

(b) A person aggrieved by a decision issued pursuant to section -703 by a county chief procurement officer or head of a purchasing agency may initiate an action under, or by virtue of, the contract in controversy in the circuit court.

(c) A governmental body aggrieved by a decision issued pursuant to section -703 by a state or county chief procurement officer or head of a purchasing agency may initiate an action under, or by virtue of, the contract in controversy in the circuit court.

(d) To the extent the remedies provided in this part, including provisions for interest, differ from the remedies available against the State under chapter 661, the remedies shall be as provided in this part. Only the attorney general may settle and resolve a matter filed in the courts against the State pursuant to this section.

§ -712 **Time limitations on actions.** (a) Requests for administrative review under section -709 shall be made within seven calendar days of the issuance of a written determination under sections -310, -701, or -702.

(b) Requests for judicial review under section -710 shall be filed in the supreme court within ten calendar days after the issuance of a written decision by the hearings officer under section -709.

(c) Complaints to initiate judicial actions under section -711 shall be filed in the circuit court within six months of the issuance of a written determination under section -703.

## PART VIII. INTERGOVERNMENTAL RELATIONS

§ -801 **Definitions.** As used in this part, unless the context requires otherwise: (added definitions to definitions section):

“Cooperative purchasing” means procurement conducted by, or on behalf

of, more than one public procurement unit, or by a public procurement unit with an external procurement activity.

“External procurement activity” means any buying organization not located in this State which, if located in this State, would qualify as a public procurement unit. An agency of the United States is an external procurement activity.

“Local public procurement unit” means any county of the State or public agency of any county, public authority, educational, health, or other institution, and to the extent provided by law, any other entity which expends public funds for the procurement of supplies, services, and construction.

“Public procurement unit” means either a local public procurement unit or a state public procurement unit.

“State public procurement unit” means the office of the chief procurement officer and any other purchasing agency of this State.

§ **-802 Cooperative purchasing authorized.** A public procurement unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of supplies, services, or construction with one or more public procurement units or external procurement activities pursuant to an agreement entered into between the participants. The cooperative purchasing may include, but is not limited to, joint or multi-party contracts between public procurement units and open-ended state public procurement unit contracts which are made available to local public procurement units.

§ **-803 Sale, acquisition, or use of supplies by a public procurement unit.** Any public procurement unit may sell to, acquire from, or use any supplies belonging to another public procurement unit or external procurement activity independent of the requirements of part III and the supply management provisions of chapter 106.

§ **-804 Cooperative use of supplies or services.** A public procurement unit may enter into an agreement, independent of the requirements of part III and the supply management provisions of this chapter and the supply management provisions of chapter 106, with any other public procurement unit or external procurement activity for the cooperative use of supplies or services under the terms agreed upon between the parties.

§ **-805 Joint use of facilities.** Any public procurement unit may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another public procurement unit or an external procurement activity under the terms agreed upon between the parties.

§ **-806 Supply of personnel, information, and technical services.** (a) Any public procurement unit is authorized, in its discretion, upon written request from another public procurement unit or external procurement activity, to provide personnel to the requesting public procurement unit or external procurement activity. The public procurement unit or external procurement activity making the request shall pay the public procurement unit providing the personnel the direct and indirect cost of furnishing the personnel, in accordance with an agreement between the parties.

(b) The informational, technical, and other services of any public procurement unit may be made available to any other public procurement unit or external procurement activity provided that the requirements of the public procurement

unit tendering the services shall have precedence over the requesting public procurement unit or external procurement activity. The requesting public procurement unit or external procurement activity shall pay for the expenses of the services so provided, in accordance with an agreement between the parties.

(c) Upon request, the chief procurement officer may make available to public procurement units or external procurement activities, any of the following services, among others:

- (1) Standard forms;
- (2) Printed manuals;
- (3) Product specifications and standards;
- (4) Quality assurance testing services and methods;
- (5) Qualified products lists;
- (6) Source information;
- (7) Common use commodities listings;
- (8) Supplier prequalification information;
- (9) Supplier performance ratings;
- (10) Debarred and suspended bidders lists;
- (11) Forms for invitations for bids, requests for proposals, instructions to bidders, general contract provisions, and other contract forms; and
- (12) Contracts or published summaries of contracts, including price and time of delivery information.

(d) The State, through the chief procurement officer, may provide the following technical services, among others:

- (1) Development of product specifications;
- (2) Development of quality assurance test methods, including receiving, inspection, and acceptance procedures;
- (3) Use of product testing and inspection facilities; and
- (4) Use of personnel training programs.

(e) The chief procurement officer may enter into contractual arrangements and publish a schedule of fees for the services provided under subsections (c) and (d).

§ **-807 Use of payments received by a supplying public procurement unit.** All payments from any public procurement unit or external procurement activity received by a public procurement unit supplying personnel or services shall be available to the supplying public procurement unit as authorized by law.

§ **-808 Public procurement units in compliance with requirements of this chapter.** Where the public procurement unit or external procurement activity administering a cooperative purchase complies with the requirements of this chapter, any public procurement unit participating in the purchase shall be considered to have complied with this chapter. Public procurement units shall not enter into a cooperative purchasing agreement for the purpose of circumventing this chapter.

§ **-809 Review of procurement requirements.** To the extent possible, the chief procurement officer may collect information concerning the type, cost, quality, and quantity of commonly used supplies, services, or construction being procured or used by state public procurement units. The chief procurement officer may also collect this information from local public procurement units. The chief procurement officer may make available all such information to any public procurement unit upon request.

§ **-810 Contract controversies.** Under a cooperative purchasing agreement, controversies arising between an administering public procurement unit and its bidders, offerors, or contractors shall be resolved in accordance with part VII.

## PART IX. ASSISTANCE TO SMALL BUSINESSES

§ **-901 Definition.** As used in this part, unless the context clearly requires otherwise:

“Geographic bidding” includes the use of a competitive solicitation which provides for one or more contracts to be awarded on a regional or geographic basis with the State.

“Small business” means a United States business which is independently owned and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation. The policy office shall adopt rules establishing a more detailed criteria for defining small business, including the number of employees and the dollar volume of business.

§ **-902 Small business assistance.** The policy office shall adopt rules to assist small businesses in learning how to do business with the State.

§ **-903 Duties of the chief procurement officer.** (a) The chief procurement officer may coordinate the implementation of this part with any similar programs offered by the department of business, economic development, and tourism or any other governmental body.

(b) The chief procurement officer may provide staff to provide service to designated state agencies to assist small businesses in learning how to do business with the State.

(c) In carrying out this part, the chief procurement officer may:

- (1) Give special publicity to procurement procedures and issue special publications designed to assist small businesses in learning how to do business with the State;
- (2) Compile, maintain, and make available source lists of small businesses for the purpose of encouraging procurement from small business;
- (3) Include small businesses on solicitation mailing lists;
- (4) Develop and conduct training programs to assist small businesses;
- (5) Reduce the level or change the types of bonding normally required or accept alternative forms of security;
- (6) Make special provisions for progress payments; and
- (7) Establish the goal that twenty per cent of the State’s annual purchasing expenditure be awarded to small business.

§ **-904 Geographic bidding.** The chief procurement officer may utilize geographic bidding in providing goods, services, and construction to best meet the needs of the State.

§ **-905 Reciprocal preference.** (a) To ensure fair and open competition for Hawaii businesses engaged in contracting with other states, the chief procurement officer may impose a reciprocal preference against bidders from those states which apply preferences. The amount of the reciprocal preference shall be equal to the amount by which the preference which would be applied by the state of the nonresident bidder exceeds any preference applied by this State.



In determining whether a bidder qualifies as a resident bidder, the definition which would be utilized by the other state in applying such a preference shall be applied.

(b) The policy office may adopt rules to implement this section.

(c) This section shall not apply to any transaction if the provisions of the section conflict with any federal laws.”

SECTION 3. Section 102-6, Hawaii Revised Statutes, is amended to read as follows:

**“§102-6 Deposits of legal tender, etc., to accompany bid.** (a) All bids shall be accompanied by a deposit of legal tender or by a certificate of deposit, share certificate, cashier’s check, treasurer’s check, teller’s check, or official check drawn by, or a certified check accepted by, a bank, savings institution, or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, in a sum not less than five per cent of the amount bid, payable at sight or unconditionally assigned to the officer advertising for tenders; provided that when the amount bid exceeds \$50,000, the deposit shall be in a sum not less than \$2,500 plus two per cent of the amount in excess of \$50,000.

[A bid deposit for a bid requiring a deposit may be in the form of a surety bond conforming to the requirements of section 103-31.] If the bid deposit is in the form of a surety bond, it shall be issued in accordance with subsection (b).

(b) 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 Hawaii 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 any further time as the officer may allow, if the bidder is awarded the contract.”

SECTION 4. Section 103-9, Hawaii Revised Statutes, is amended to read as follows:

**“§103-9 False certificates or approval; penalty.** Any public officer or employee who falsely certifies or approves for payment any bill or voucher, or any claim against the State or any county; or who causes or authorizes the purchase of any materials or supplies or the performance of any service or labor on behalf or for the benefit of the State or any county, in the absence of any appropriations, or in excess of any appropriations made for such purposes, with the intent that the materials or supplies so purchased or the service or labor so performed shall be paid for by the State or county[, and any person who violates this chapter] shall be fined not more than \$500, or imprisoned not more than one year, or both.”

SECTION 5. Section 103-21, Hawaii Revised Statutes, is amended to read as follows:

**“§103-21 Officer defined.** The term [“officer”] “procurement officer” as used in [sections 103-22 to 103-38,] chapter \_\_\_\_\_ with respect to contracts entered into by a county or a board, bureau, or commission thereof authorized to contract in its own behalf, means the council of the county or the governing body of such

board, bureau, or commission as constituted by law, or such officer as is authorized by the county council or the board, bureau, or commission to act as its contracting officer.”

SECTION 6. Section 103-22.1, Hawaii Revised Statutes, is amended to read as follows:

“**§103-22.1 Services of the handicapped.** When a governmental agency contracts for or purchases services, five per cent preference shall be given to services to be performed by nonprofit corporations or public agencies operating sheltered workshops servicing the handicapped in conformance with criteria established by the department of labor and industrial relations pursuant to chapter 91; provided that service contracts awarded under this section shall be exempt from the wages provision of section 103-55. The [state comptroller] policy office shall adopt rules under chapter 91 to establish the preference for the services to be performed by nonprofit corporations or public agencies operating sheltered workshops consistent with this section.”

SECTION 7. Section 103-24.5, Hawaii Revised Statutes, is amended to read as follows:

“**[§103-24.5] Procurement preference for recycled products.** In order to encourage the use of recycled products, contracts shall be awarded [to the lowest bidders.] in accordance with chapter \_\_\_\_\_, with preference given to the products containing recycled raw material. [The comptroller shall no later than January 1, 1992,] The policy office may establish rules in accordance with chapter 91 governing preference for recycled products. The rules shall establish percentages of preference and the method of determining the content of recycled raw material to qualify various products for preference.”

SECTION 8. Section 103-24.6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The [department] policy office shall adopt rules pursuant to chapter 91 appropriate<sup>1</sup> to carry out the purposes of this section.”

SECTION 9. Section 103-40, Hawaii Revised Statutes, is amended to read as follows:

“**§103-40 Federal-aid highway contracts.** Anything in section [103-39] -309 to the contrary notwithstanding, any federal-aid highway contract shall be binding and of force if the director of finance certifies that the director anticipates the accrual of an amount in the highway fund sufficient to pay the State’s share of the contract before the performance contracted for is completed.”

SECTION 10. Section 103-42, Hawaii Revised Statutes, is amended to read as follows:

“**§103-42 Hawaii products list, bidding and [advertisements.] public notice.** The [state comptroller] policy office shall make rules [and regulations] for the establishment and administration of a Hawaii products list, including the various classifications of Hawaii products; for necessary procedures for qualifying and registering products for such list; for the annual revision of the list; and for

such other purposes as may be necessary to carry out the intent of the preferences provided for in section 103-43.

The [comptroller] chief procurement officer shall distribute copies of the list to the purchasing departments of the various governmental agencies.

The [comptroller] chief procurement officer shall have the authority to examine and review the financial statements and such other reports as may be necessary, of any person, who desires to have the person's products on the Hawaii products list, to determine whether the products meet the qualifications. All persons whose products are on the Hawaii products list shall be responsible for informing the [comptroller] chief procurement officer of any change in the classifications of their products which have been originally registered with the Hawaii products list within two months of the change. In any event, such persons shall file annually with the [comptroller] chief procurement officer such documents or information as may be required in determining any change in the classification of a Hawaii product under the rules [and regulations] to be established by the [comptroller,] policy office, within two months from the closing of their books, whether on a fiscal or calendar year.

[Advertisement for bids] Public notice of invitations for bids and requests for proposals by a governmental agency shall contain, if applicable, a notice referring to the preferences for Hawaii products and to section 103-43, and shall also contain a notice referring to the place where the Hawaii products list may be examined."

SECTION 11. Section 103-43, Hawaii Revised Statutes, is amended to read as follows:

**"§103-43 Mandatory purchase of Hawaii products.** In any expenditure of public funds, a governmental agency shall review purchase and design specifications of public works contracts including repair and maintenance requirements for products and purchase any required product from the Hawaii products list established under section 103-42 where such products are available, provided the products meet the minimum specifications and the selling price f.o.b. jobsite; unloaded including applicable general excise tax and use tax does not exceed the lowest delivered price in Hawaii f.o.b. jobsite; unloaded including applicable general excise tax and use tax of a similar non-Hawaii product by more than three per cent, where Class I Hawaii products are involved, or five per cent where Class II Hawaii products are involved, or ten per cent where Class III Hawaii products are involved.

Where a package bid or purchase contains both Hawaii and non-Hawaii products, then for the purpose of selecting the lowest bid or purchase price only, the price bid or offered for a non-Hawaii product item shall be increased by adding thereto three per cent, five per cent, or ten per cent where similar Class I, Class II, or Class III Hawaii product items have been bid or offered by another party pursuant to the preferences stated above. The lowest total bid, taking into consideration the above preferences, shall be awarded the contract but the contract amount of any contract awarded, however, shall be the amount of the bid or price offered, exclusive of such preferences.

Notwithstanding the provisions of the preceding paragraphs, an additional five per cent preference shall be applicable to Hawaii products manufactured by nonprofit corporations and public agencies operating sheltered workshops as certified by the department of labor and industrial relations for physically or mentally handicapped persons. The [state comptroller] policy officer shall adopt

rules under chapter 91 to require a governmental agency to give an additional five per cent preference to the purchase of products manufactured by nonprofit corporations or public agencies operating sheltered workshops consistent with this section.”

SECTION 12. Section 103-48, Hawaii Revised Statutes, is amended to read as follows:

“**§103-48 Penalty.** Any officer of the State or of any municipality, county, or other political subdivision thereof, or any person acting under or for such officer, or any other person who violates [any provisions of sections 103-22,] section 103-22.1[, 103-23, 103-29, and 103-33] shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Any officer or employee of any governmental agency who violates any provisions of sections 103-41 through 103-47 shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Any person, or any officer or employee of any person, who violates any provisions of sections 103-41 through 103-47 shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and any person who is awarded a contract or given an order for purchase as a result of misrepresentation in the person’s bid or makes a claim in the person’s bid that the person will purchase Hawaii products, but fails to do so shall, in addition, be fined the difference between the price of the products actually used or supplied and the price the person would have paid for Hawaii products and shall not be awarded any contract or be given any order for purchase or be eligible for bidding until one year after the date when such person pays the fines levied under this section.”

SECTION 13. Section 103-49, Hawaii Revised Statutes, is amended to read as follows:

“**§103-49 Value engineering clauses; rules [and regulations].** The State and each of the respective counties shall insert clauses providing for value engineering incentives in all public works contracts for amounts in excess of \$100,000. The clauses shall provide:

- (1) That cost reduction proposals submitted by contractors:
  - (A) Must require, in order to be applied to the contract, a change order thereto; and
  - (B) Must result in savings to the State or county, as the case may be, by providing less costly items than those specified in the contract without impairing any of their essential functions and characteristics such as service life, reliability, economy of operation, ease of maintenance, and necessary standardized features.
- (2) That accepted cost reduction proposals shall result in an equitable adjustment of the contract price so that the contractor will share a portion of the realized cost reduction.

The [comptroller of the State or the treasurer or director of finance of each of the counties, as the case may be,] policy office shall [promulgate] adopt, pursuant to chapter 91, such rules [and regulations] as may be necessary and proper to implement this section, provide adequate incentives to contractors, realize savings for the State or counties, and to otherwise carry out the purposes of this section.”

SECTION 14. Section 104-5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics for wages or overtime compensation due under this chapter, and the contractor has knowingly failed to pay such wages or overtime compensation, the contractor and the contractor’s sureties shall be liable to the laborers and mechanics in the amount of the unpaid wages and overtime compensation due and in an additional equal amount as liquidated damages. However, [any action against a surety or sureties shall be governed by and limited to section 507-17, and] any claim for liquidated damages, insofar as the surety or sureties is concerned, shall not be paid until the claims of all other creditors have been satisfied. Action to recover unpaid wages or overtime compensation may be maintained in any court of competent jurisdiction by any one or more laborers or mechanics for and in behalf of oneself or themselves and others similarly situated. No laborer or mechanic shall be a party plaintiff to the action unless the laborer or mechanic gives the laborer’s or mechanic’s consent in writing and the consent is filed in the court in which the action is brought. The court in the action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney’s fee to be paid by the defendant, and costs of the action. It shall be no defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or overtime compensation or voluntarily made refunds.”

SECTION 15. Section 128-10, Hawaii Revised Statutes, is amended to read as follows:

“§128-10 **Other powers.** The governor further may irrespective of the existence of a civil defense emergency period:

- (1) Cooperation with federal agencies in civil defense matters, etc. Cooperate with the President and the heads of the armed forces, and the civil defense agency of the United States, and with the officers and agencies of other states in matters pertaining to the civil defense of the State and nation and the incidents thereof, and take any measures which the governor may consider proper to carry into effect any request of the President or the appropriate federal officers and agencies, for any action looking to civil defense.
- (2) Lend-lease. Lease, lend, or otherwise furnish, on such terms and conditions as the governor may consider necessary to promote the public welfare and protect the interest of the State, any real or personal property of the state government or its political subdivisions, to the President, the heads of the armed forces, or to the civil defense agency of the United States.
- (3) Agreements with the federal government and other states. On behalf of the State enter into mutual aid agreements or compacts with the federal government and with other states. The agreements or compacts shall be limited to civil defense. It may be provided in an interstate compact, and the governor with the advice and consent of the political subdivisions included within the scope of the compact, may agree on behalf of the State that:
  - (A) Each party state shall extend to the civil defense forces of any other party state, while operating within its state limits under the terms and conditions of the compact, the same powers

- (except that of arrest unless specifically authorized by the receiving state), duties, rights, privileges, and immunities as if they were performing their duties in the state in which normally employed or rendering services.
- (B) Whenever any person holds a license, certificate, or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving this skill in any party state to meet an emergency or disaster and the state shall give due recognition to such license, certificate, or other permit as if issued in the state in which aid is rendered.
  - (C) No party state or its officers or employees rendering aid in another state pursuant to the compact shall be liable on account of any act or omission on the part of the forces while so engaged, or on account of the maintenance or use of any materials, equipment, goods,<sup>1</sup> or facilities in connection therewith.
  - (D) As an alternative to paragraph (C), such other or modified form of immunity as the governor may find acceptable.
  - (E) Each party state shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that state and the representatives of deceased members of the forces in case the members sustain injuries or are killed while rendering aid pursuant to the compact, in the same manner and on the same terms as if the injury or death were sustained within the state.
  - (F) Any party state rendering aid in another state pursuant to the compact shall be reimbursed by the party state receiving aid, or by the United States government under plans approved by it, for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for all costs incurred in connection with requests for aid; provided that this paragraph shall not be deemed to preclude the State, if it is the aiding state, from assuming in whole or in part the loss, damage, expense, or other cost, or from loaning the equipment or donating the services to the receiving party state without charge or cost.
  - (G) Any party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for the evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items; the expenditures shall be reimbursed by the party state of which the evacuees are residents, or by the United States government under plans approved by it.
  - (H) In the event of an evacuation, the party state of which the evacuees are residents shall, after the termination of the emergency or disaster, assume the responsibility for the ultimate support or repatriation of the evacuees.
- (4) Other mutual aid. Sponsor and develop mutual aid plans and agreements for civil defense between the political subdivisions of the State and between one or more political subdivisions and other public or private agencies, for the furnishing or exchange of food, clothing, medicine, and other materials; engineering services, emergency

- housing; police services; health, medical, and related services; fire fighting, rescue, transportation, and construction services and facilities; personnel necessary to provide or conduct these services; and such other materials, facilities, personnel, and services as may be needed. The mutual aid plans and agreements may be made with or without provisions for reimbursement of costs and expenses, and on such terms and conditions as are deemed necessary.
- (5) Control and utilization of government agencies. Order and direct government agencies, officers, and employees, state or local, to take such action and employ such measures for law enforcement, medical, health, fire fighting, traffic control, warnings, and signals, engineering, rescue, construction, emergency housing, and other welfare, hospitalization, transportation, water supply, public information, training, and other civil defense and emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers. All such agencies and officers shall cooperate with and extend their services, materials, and facilities to the governor as the governor may request.
  - (6) Utilization of public property. Take possession of, use, manage, control, and reallocate any public property, state or county, real or personal, required by the governor for the purposes of this chapter, including, without limitation, airports, parks, playgrounds, and schools, and other public buildings. Whenever the property is so taken the governor shall have power to make such provision for the temporary accommodation of the government service affected thereby as the governor may deem advisable. Like provisions may be made at any time whenever it is necessary to relocate any government service because of any emergency condition.
  - (7) Utilization of existing private agencies. Utilize all services, materials, and facilities of nongovernmental agencies, relief organizations, community associations, and other civil groups and private agencies that may be made available.
  - (8) Contributions. Receive, expend, or use contributions or grants in money, property, or services, or loans of property, or special contributions or grants in money, property, or services, or loans of property, for special purposes provided for by this chapter; establish funds in the treasury for the deposit and expenditure of the moneys; procure federal aid as the same may be available, and apply the provisions of chapter 29 in cases of federal aid even though not in the form of money. The contributions or grants are appropriated for the purposes of this chapter, or for the special purposes.
  - (9) Maintenance and insurance of public property; restoration of vital facilities. Provide for the repair and maintenance of public property, whenever adequate provision therefor is not otherwise made; insure the property against any war risk, including without limitation damage or loss resulting from or arising out of an attack or action in resisting or combating an attack or apparent attack; provide for the restoration, renovation, replacement, or reconstruction of insured property in the event of damage or loss, and make temporary restoration of public utilities and other vital facilities in the event of an attack or other disaster.
  - (10) Procurement, etc. Purchase, make, produce, construct, rent, lease, or procure by condemnation or otherwise, transport, store, install,

maintain and insure, repair, renovate, restore, replace, or reconstruct, and distribute, furnish, or otherwise dispose of, with or without charges therefor, materials and facilities for civil defense and other emergency functions; procure federal aid therefor whenever feasible; and take any and all measures which may, in the governor's opinion, secure, stimulate, or increase similar activities by private or public persons or organizations. [Sections 103-21 to 103-57,] Chapter sections 103-41 to 103-57, 105-1 to 105-10[,] and 464-4 [and 507-17] shall not apply to any civil defense or other emergency functions if and to the extent that the governor shall find that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of the functions, or that compliance therewith is impracticable due to existing conditions. In cases of extreme urgency during a civil defense emergency period the governor may suspend the penal provisions of sections 46-45 and 103-9, except those provisions that concern falsification.

- (11) Personnel. Appoint, employ, train, equip, and maintain, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 77, and 79, part II of chapter 88 and section 78-1, such agencies, officers, and other persons as the governor deems necessary to carry out this chapter; determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to section 128-15, provide for and effect the interchange of personnel, by detail, transfer, or otherwise, between the State and any political subdivision, or among any agencies or departments of the State.
- (12) Charges. Make charges in such cases and in such amounts as the governor deems advisable, for any property sold, work performed, services rendered, or accommodations or facilities furnished by the government under this chapter; and make charges for licenses or permits to cover administrative expense connected therewith.
- (13) Contracts. Make such contracts as may be necessary to carry out this chapter.
- (14) Accounting. Establish special accounting forms and practices whenever necessary.
- (15) Other powers. Take any and all steps necessary or appropriate to carry out the purposes of this chapter and to provide for civil defense and other emergency functions.
- (16) Powers under this chapter are additional. The powers and authority conferred upon the governor by this chapter are in addition to any other powers or authority conferred upon the governor by the laws of the United States and of the State for the same or a like purpose, and shall not be construed as abrogating, limiting, or modifying any such powers, or authority."

SECTION 16. Section 128-13, Hawaii Revised Statutes, is amended to read as follows:

**"§128-13 Power and authority of local organizations.** Each political subdivision shall have the power and authority:

- (1) Deputy director's staff. To provide, for the deputy director of such political subdivision, an assistant or assistants whose appointment



shall be approved by the director of civil defense, and such technical, clerical, stenographic, and other personnel, office space, furniture, equipment, goods,<sup>1</sup> and funds as may be necessary to carry out the purposes of this chapter. Chapter 76 shall apply to the full-time deputy director or the deputy director's first assistant.

- (2) Appropriations, etc. To make appropriations and authorize expenditures for the purposes of this chapter, including the power to place under the control of the governor, for expenditure as matching funds for federal aid, or for any purpose within the powers of the governor, moneys appropriated by it; to make appropriations and authorize expenditures for the purposes of this chapter out of the normal revenues or fund balances or surpluses of the political subdivision, notwithstanding any legal restrictions upon the purposes for which the funds may be expended, except, that pension and retirement funds, funds set aside for the redemption of bonds or the payment of interest thereon, trust funds, loan funds, and funds received from the federal government or from any person for specific purposes shall not be affected.
- (3) Procurement, etc. To purchase, make, produce, construct, rent, lease, or procure by condemnation, or otherwise, transport, store, install, maintain, and insure, repair, renovate, restore, replace or reconstruct, and distribute, furnish or otherwise dispose of, with or without charges, materials and facilities for civil defense; and to procure federal aid therefor whenever feasible. [Sections 103-21 to 103-57, and] Chapter \_\_\_\_\_, sections 103-41 to 103-57, 105-1 to 105-10[,] and 464-4 [and 507-17] shall not apply to any civil defense functions of and to the extent that the mayor finds that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of the functions, or that compliance therewith is impracticable due to existing conditions.
- (4) Personnel. To provide for the appointment, employment, training, equipping, and maintaining, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 77, 79, and 88[,] and section 78-1, of such agencies, officers, and other persons as it deems necessary to carry out this chapter; to determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to section 128-15, to provide for the interchange of personnel, by detail, transfer or otherwise, between agencies or departments of the political subdivision, or between political subdivisions.
- (5) Contributions. To receive, expend, or use contributions or grants in money, property, or services, or loans of property, or special contributions or grants in money, property, or services, or loans of property, for special purposes provided for by this chapter.
- (6) Charges. To make charges in such cases and in such amounts as it deems advisable, for any property sold, work performed, services rendered, or accommodations or facilities furnished by the political subdivision under this chapter.
- (7) Contracts. To make or authorize such contracts as may be necessary to carry out this chapter.
- (8) Mutual aid plans. To participate in and carry out mutual aid plans

and agreements or compacts, sponsored or developed by the state civil defense agency.

- (9) Continuity of government. To insure continuity of government during a civil defense emergency period, the legislative body of a county may by ordinance, unless otherwise provided by law, provide the procedure for the appointment and designation of stand-by officers for the legislative body and the elected chief executive of the county for the emergency period, who shall serve in the event of the unavailability of the officers for whom they stand by.”

SECTION 17. Section 201-82, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§201-82]]~~ **Powers of the department.** The department, subject to the approval of the director of budget and finance, shall have the following general powers to operate out-of-state offices established:

- (1) To enter into contracts, leases, or cooperative agreements, or perform other transactions with any person, firm, partnership, association, company, corporation, or foreign nation, as may be necessary in the conduct of its business and on such terms as the department may deem appropriate, [notwithstanding the provisions of chapter 103;] using competitive procurement practices, to the extent practicable, in accordance with rules adopted by the policy office;
- (2) To establish operational bank accounts in out-of-state locations, including foreign denomination accounts, as may be necessary in the conduct of its business, notwithstanding the provisions of chapter 38;
- (3) To receive by gifts, grants, devises, bequests, or otherwise from private sources or a foreign nation, any property, real, personal, or mixed, intangible or tangible, absolutely or in trust, to be used and disposed of, either the principal or the income therefrom, in accordance with the conditions under which it was received;
- (4) To sell, lease, rent, hold, maintain, use, and operate any property, real, personal, or mixed, tangible or intangible, in accordance with the conditions under which it was received;
- (5) To hire such personnel as may be necessary in the conduct of its business and on such terms as the department may deem appropriate; and
- (6) To do any or all other acts reasonably necessary to carry out the objects and purposes of this part, provided that the department shall not obligate any funds of the State not appropriated to the department.”

SECTION 18. Section 206-8, Hawaii Revised Statutes, is amended to read as follows:

“**§206-8 Development of lands acquired.** Where lands are acquired by the board of land and natural resources with its own funds, it shall subdivide and develop the lands into residence lots, or dwellings and lots in a manner best designed to carry out the purposes of this chapter.

The board may contract with any private developer to provide for the financing of the acquisition of lands, the subdivision and development of

acquired lands, and the disposition of residence lots, or the construction of dwellings on the lots and the disposition of both. The contracts may be entered into after published advertisement for sealed tenders, setting forth the terms of the proposed contract, including necessary plans, specifications, and time schedules. The contract shall provide for the establishment of such sale prices of the residence lots, or dwellings and lots as will repay to the developer the amount of the actual cost or expense incurred in the acquisition and development of the land together with a reasonable developer's profit computed thereon as determined by the board. The contract shall also provide for the sale of residence lots, or dwellings and lots only to persons entitled to purchase from the board, upon the terms and conditions provided in sections 206-9 to 206-12 with respect to sales by the board. Every contract shall be made with the responsible bidder whose proposal complies with the requirements of the call for tenders and states the lowest rate of developer's profits; provided that the board may reject all tenders if it deems that the lowest rate of developer's profit is unreasonable. Publication of the call for tenders shall be made [as required by section 103-26, and the] by publishing a call for tenders not less than three times in a newspaper of general circulation printed and published within the State. No more than one of these publications shall be made on any one day or on two consecutive days. The time for opening of the tenders shall be not less than thirty days after the last publication."

SECTION 19. Section 227D-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The authority shall not be subject to any requirement of law for competitive bidding, including the requirements of [section 103-22] chapter \_\_\_\_\_ and section 103-42, for project agreements, construction contracts, or other contract unless a project agreement with respect to a project or research and technology park shall require otherwise."

SECTION 20. Section 264-26, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every agreement for the engineering or construction of federal-aid highways or for the acquisition of rights-of-way for these highways shall be made on behalf of the State by the director of transportation. [The provisions of section 103-39] Section \_\_\_\_\_-309 shall [be applicable] apply only to that portion of the price that is payable out of local funds. As to that portion of the price that is payable out of federal-aid funds, the agreement is that the State will pay the contractor only out of federal funds actually received for that portion of the project and is not a general agreement on the part of the State to pay that portion out of any other funds. Each agreement shall be deemed to contain a provision to that effect whether specifically included or not."

SECTION 21. Section 264-33, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) The work shall be performed in accordance with standards of construction currently used by the utility; and

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

SECTION 22. Section 12 of Act 321, Session Laws of Hawaii 1986, as amended by Section 69 of Act 283, Session Laws of Hawaii 1987, as amended by Section 7 of Act 371, Session Laws of Hawaii 1989, as amended by Section 3 of Act 163, Session Laws of Hawaii 1991, as amended by Section 2 of Act 314, Session Laws of Hawaii 1993, is amended to read as follows:

“SECTION 12. This Act shall take effect on July 1, 1986, and be repealed as of June 30, [1994] 1998;<sup>1</sup> provided that on repeal sections 40-1, 40-2, 40-4, 40-6, and 40-81, [and 103-23,] Hawaii Revised Statutes, are reenacted in the form in which they read on June 30, 1986, and [sections] section 40-58 [and 103-39], Hawaii Revised Statutes, [are] is reenacted in the form in which [they] it read on June 30, 1991.”

SECTION 23. Section 331-1, Hawaii Revised Statutes, is amended to read as follows:<sup>1</sup>

“§331-1 **Purchase of radium or other radioactive substances.** The department of health may purchase radium or other radioactive substances to be used for medical or surgical purposes out of any moneys appropriated therefor. The radium or other radioactive substances so purchased shall be such as are approved by the Bureau of Standards at Washington, D.C. [Such purchases may be made without regard to sections 103-22 to 103-25.]”

SECTION 24. Section 437-18, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) More than one bond may be furnished by the same applicant, provided they aggregate the full amount prescribed by this section. [If any bond is not (1) executed by a surety company authorized to do business in the State, or (2) secured by a deposit of cash with the board in lieu of surety, then sections 103-35 to 103-37 shall apply to the furnishing of the bond and the surety or sureties and the security thereof, with the substitution of the board hereunder or the awarding officer mentioned in sections 103-35 and 103-37 as appropriate.]”

SECTION 25. Section 103-3, Hawaii Revised Statutes, is repealed.

SECTION 26. Section 103-22, Hawaii Revised Statutes, is repealed.

SECTION 27. Section 103-23, Hawaii Revised Statutes, is repealed.

SECTION 28. Section 103-23.2, Hawaii Revised Statutes, is repealed.

SECTION 29. Section 103-23.5, Hawaii Revised Statutes, is repealed.

SECTION 30. Section 103-24, Hawaii Revised Statutes, is repealed.

SECTION 31. Section 103-25, Hawaii Revised Statutes, is repealed.

SECTION 32. Section 103-26, Hawaii Revised Statutes, is repealed.

SECTION 33. Section 103-27, Hawaii Revised Statutes, is repealed.

SECTION 34. Section 103-28, Hawaii Revised Statutes, is repealed.

SECTION 35. Section 103-29, Hawaii Revised Statutes, is repealed.

SECTION 36. Section 103-30, Hawaii Revised Statutes, is repealed.

SECTION 37. Section 103-31, Hawaii Revised Statutes, is repealed.

SECTION 38. Section 103-32, Hawaii Revised Statutes, is repealed.

SECTION 39. Section 103-33, Hawaii Revised Statutes, is repealed.

SECTION 40. Section 103-33.5, Hawaii Revised Statutes, is repealed.

SECTION 41. Section 103-34, Hawaii Revised Statutes, is repealed.

SECTION 42. Section 103-35, Hawaii Revised Statutes, is repealed.

SECTION 43. Section 103-36, Hawaii Revised Statutes, is repealed.

SECTION 44. Section 103-37, Hawaii Revised Statutes, is repealed.

SECTION 45. Section 103-38, Hawaii Revised Statutes, is repealed.

SECTION 46. Section 103-39, Hawaii Revised Statutes, is repealed.

SECTION 47. Section 103-52, Hawaii Revised Statutes, is repealed.

SECTION 48. Section 201E-34, Hawaii Revised Statutes, is repealed.

SECTION 49. Section 356-23, Hawaii Revised Statutes, is repealed.

SECTION 50. Section 507-17, Hawaii Revised Statutes, is repealed.

SECTION 51. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000, or so much thereof as may be necessary for fiscal year 1994-1995, to carry out the purposes of this Act; provided that of the sum appropriated:

- (1) \$75,000 shall be expended by the department of personnel services for education and training programs provided in section -110; and

- (2) \$225,000 shall be expended by the department of accounting and general services; provided further that \$100,000 shall be expended for the salary and secretarial support for the administrator to the procurement office, and \$125,000 shall be expended to provide for the drafting and adoption of rules in preparation for the implementation of this Act.

SECTION 52. The department of personnel services shall immediately review the provisions of section 2 of this Act and redefine the qualifications, duties, and responsibilities of the chief procurement officer within the department of accounting and general services position and any other related positions, and reclassify those positions in light of the changes in qualifications, duties, and responsibilities for these positions. The department shall report its actions to the legislature prior to the convening of the regular session of 1994.

SECTION 53. Sections 11-193, 89-5, 180-2, 269-3, 368-3, 383-103, 392-76, 674-5, and 674-13, Hawaii Revised Statutes, are amended by substituting the term "section 209(b)" established in section 2 of this Act for the term "section 103-3" as it appears in those sections and the context requires.

SECTION 54. Sections 36-41, 41D-2, 42D-1, 46-56, 53-9, 103-32.1, 103-61, 104-7, 106-15, 201-85, 206-22, 206E-11, 206J-9, 266-2, 268-1.5, 299-3, 329-58, 354D-4, and 354D-8, Hawaii Revised Statutes, are amended by substituting the chapter designation for the new chapter in section 2 of this Act for the term "chapter 103" as it appears in those sections and the context requires.

SECTION 55. Sections 39A-32, 39A-72, 39A-112, 39A-152, 39A-192, 201E-202, 261-52, 266-52, 304-8.94, 307-4, and 356-15.5, Hawaii Revised Statutes, are amended by substituting a reference to the new chapter established in section 2 of this Act for the term "section 103-22" as it appears in those sections and the context requires.

SECTION 56. Sections 201E-33, 206-21, and 356-22, Hawaii Revised Statutes, are amended by substituting a reference to the new chapter established in section 2 of this Act for the term "sections 103-26 to 103-38" as it appears in those sections and the context requires.

SECTION 57. Section 382-3, Hawaii Revised Statutes, is amended by substituting a reference to the new chapter enacted in section 2 of this Act and the term "and sections 103-41 to 103-57," for the term "sections 103-21 to 103-57" as it appears in that section and the context requires.

SECTION 58. Section 437-18, Hawaii Revised Statutes, is amended by substituting a reference to the new chapter enacted in section 2 of this Act for the term "sections 103-35 to 103-37" as it appears in that section and the context requires.

SECTION 59. Statutory and session law material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 60. The repeal of section 507-17, in section 50 of this Act does not affect rights and duties that matured, penalties that were incurred or imposed,

and proceedings that were begun before the effective date of this Act, and the provisions of section 507-17 shall otherwise remain in effect and determine all rights, duties, penalties, and proceedings which matured, accrued, or were pending on the effective date of section 507-17's repeal.

SECTION 61. This Act shall take effect on July 1, 1994; provided that sections 51 and 52 of this Act and sections -110, -201, -202, -204, and -211 of the chapter established in section 2 of this Act shall take effect upon approval.

(Approved October 4, 1993.)

**Notes**

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

**Session Laws of Hawaii  
Passed By The  
Seventeenth State Legislature  
Regular Session  
1994**

**ACT 1**

H.B. NO. 2280

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

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

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,066,594, or so much thereof as may be necessary, for defraying any and all session and nonsession expenses of the Senate up to and including June 30, 1995, including but not limited to the 1994 regular session, Seventeenth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1994 and 1995 regular sessions.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$6,975,848, or so much thereof as may be necessary, for defraying any and all session and nonsession expenses of the House of Representatives up to and including June 30, 1995, including but not limited to the 1994 regular session, Seventeenth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1994 and 1995 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1994 and 1995 regular sessions shall be made only with the approval of the President of the Senate, and payment of expenses of the House of Representatives during the interim between the 1994 and 1995 sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 18, 1995, the Senate and 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 18, 1995.



## ACT 1

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 provisions of section 78-15, Hawaii Revised Statutes, or by any other general statute. Until otherwise prescribed by law, the expenses of such member shall be \$130 a day and authorized by the President of the Senate and the Speaker of the House of Representatives, respectively.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,723,632, to the office of the legislative auditor for the following expenses: (a) the sum of \$1,972,500, or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1994-1995; (b) the sum of \$601,132, or so much thereof as may be necessary for defraying the expenses of the office of the state ethics commission during the fiscal year 1994-1995; and (c) the sum of \$150,000, or so much thereof as may be necessary during the fiscal year 1994-1995, for (1) performing special studies, (2) improving capabilities for planning, programming and budgeting, (3) fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives, (4) legislative studies and for contractual services for those studies, and (5) such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,282,204, to the legislative reference bureau for the following expenses: (a) the sum of \$2,127,204, or so much thereof as may be necessary, for defraying the expenses of the legislative reference bureau during the fiscal year 1994-1995, including equipment relating to computer systems programming and operations; and (b) the sum of \$155,000, or so much thereof as may be necessary, for defraying the expenses of the review commission on the state water code; provided that the appropriation for the review commission on the state water code shall take effect upon its approval and shall not lapse until June 30, 1995.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$712,156, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1994-1995.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the following sums, or so much thereof as may be necessary, for defraying the expenses of the legislative information system (known as "SHADO"): (a) \$600,000 to the Senate; and (b) \$600,000 to the House of Representatives. This appropriation shall be utilized to pay for hardware, software, consultant, installation, materials, supplies, and other related costs associated with the legislative information system which have been or will be incurred. This appropriation shall take effect upon its approval and shall not lapse until June 30, 1995.

SECTION 10. As of the close of business on June 30, 1995, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 11. Each section of this Act is declared to be severable from the remainder of this Act.

SECTION 12. This Act shall take effect upon its approval.

(Approved February 2, 1994.)

## ACT 2

H.B. NO. 3322

A Bill for an Act Making Emergency Appropriations for the Payment Programs.

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

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

SECTION 2. Act 289, Session Laws of Hawaii 1993, appropriated a certain designated sum to the department of human services to provide funds for the payment programs under the family and adult services division for the fiscal period beginning July 1, 1993, and ending June 30, 1994. The payment programs have been designated as the Aid to Families with Dependent Children (AFDC), General Assistance (GA), and the Aid to the Aged, Blind and Disabled (AABD).

A critical funding emergency exists. The payment programs will expend all appropriated funds before the end of the current fiscal year and the department will be unable to meet its fiscal obligation to provide financial assistance to needy individuals and families. The increase in caseload is the primary contributing factor to this financial situation. The GA/AABD average monthly caseload for the first quarter of fiscal year 1993-1994 increased in excess of ten per cent over the fiscal year 1992-1993 average monthly caseload. The AFDC average monthly caseload for the first quarter of fiscal year 1993-1994 increased in excess of seven per cent over the fiscal year 1992-1993 average monthly caseload.

The purpose of this Act is to appropriate or authorize moneys to prevent the reduction or discontinuance of financial assistance payments to needy individuals and families under the payment programs.

SECTION 3. There are appropriated or authorized out of the funding sources indicated below the following sums, or so much thereof as may be necessary for fiscal year 1993-1994, to be used for financial assistance payments to applicants and recipients.

General Funds:	\$10,300,139
Federal Funds:	\$ 7,203,668

SECTION 4. The sums appropriated or authorized shall be expended by the department of human services for the purposes of this Act.

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

(Approved March 18, 1994.)

## A Bill for an Act Relating to Coastal Zone Management.

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

SECTION 1. Section 205A-2, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Policies.

- (1) Recreational resources;
  - (A) Improve coordination and funding of coastal recreational planning and management; and
  - (B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:
    - (i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;
    - (ii) Requiring replacement of coastal resources having significant recreational value, including but not limited to surfing sites, fishponds, and sand beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the State for recreation when replacement is not feasible or desirable;
    - (iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;
    - (iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;
    - (v) Ensuring public recreational use of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;
    - (vi) Adopting water quality standards and regulating point and nonpoint sources of pollution to protect, and where feasible, restore the recreational value of coastal waters;
    - (vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and
    - (viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, county planning commissions; and crediting such dedication against the requirements of section 46-6.
- (2) Historic resources;
  - (A) Identify and analyze significant archaeological resources;
  - (B) Maximize information retention through preservation of remains and artifacts or salvage operations; and
  - (C) Support state goals for protection, restoration, interpretation, and display of historic resources.
- (3) Scenic and open space resources;
  - (A) Identify valued scenic resources in the coastal zone management area;

- (B) Ensure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;
  - (C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and
  - (D) Encourage those developments which are not coastal dependent to locate in inland areas.
- (4) Coastal ecosystems;
- (A) Improve the technical basis for natural resource management;
  - (B) Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;
  - (C) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and
  - (D) Promote water quantity and quality planning and management practices which reflect the tolerance of fresh water and marine ecosystems and prohibit land and water uses which violate state water quality standards.
- (5) Economic uses;
- (A) Concentrate coastal dependent development in appropriate areas;
  - (B) Ensure that coastal dependent development such as harbors and ports, and coastal related development such as visitor industry facilities and energy generating facilities, are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
  - (C) Direct the location and expansion of coastal dependent developments to areas presently designated and used for such developments and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:
    - (i) Use of presently designated locations is not feasible;
    - (ii) Adverse environmental effects are minimized; and
    - (iii) The development is important to the State's economy.
- (6) Coastal hazards;
- (A) Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;
  - (B) Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards;
  - (C) Ensure that developments comply with requirements of the Federal Flood Insurance Program;
  - (D) Prevent coastal flooding from inland projects; and
  - (E) Develop a coastal point and nonpoint source pollution control program.
- (7) Managing development;
- (A) Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;

ACT 3

- (B) Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit requirements; and
  - (C) Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life-cycle and in terms understandable to the public to facilitate public participation in the planning and review process.
- (8) Public participation;
- (A) Maintain a public advisory body to identify coastal management problems and to provide policy advice and assistance to the coastal zone management program;
  - (B) Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal-related issues, developments, and government activities; and
  - (C) Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts.
- (9) Beach protection;
- (A) Locate new structures inland from the shoreline setback to conserve open space and to minimize loss of improvements due to erosion;
  - (B) Prohibit construction of private erosion-protection structures seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not interfere with existing recreational and waterline activities; and
  - (C) Minimize the construction of public erosion-protection structures seaward of the shoreline.”

SECTION 2. Section 205A-26, Hawaii Revised Statutes, is amended to read as follows:

“**§205A-26 Special management area guidelines.** In implementing this part, the authority shall adopt the following guidelines for the review of developments proposed in the special management area:

- (1) All development in the special management area shall be subject to reasonable terms and conditions set by the authority in order to ensure:
  - (A) Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves is provided to the extent consistent with sound conservation principles;
  - (B) Adequate and properly located public recreation areas and wildlife preserves are reserved;
  - (C) Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon special management area resources; and
  - (D) Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources and scenic and recreational

- amenities and minimum danger of floods, wind damage, storm surge, landslides, erosion, siltation, or failure in the event of earthquake.
- (2) No development shall be approved unless the authority has first found:
- (A) That the development will not have any substantial adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests. Such adverse effects shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect, and the elimination of planning options;
  - (B) That the development is consistent with the objectives, policies, and special management area guidelines of this chapter and any guidelines enacted by the legislature; and
  - (C) That the development is consistent with the county general plan and zoning. Such a finding of consistency does not preclude concurrent processing where a general plan or zoning amendment may also be required.
- (3) The authority shall seek to minimize, where reasonable:
- (A) Dredging, filling or otherwise altering any bay, estuary, salt marsh, river mouth, slough or lagoon;
  - (B) Any development which would reduce the size of any beach or other area usable for public recreation;
  - (C) Any development which would reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions of rivers and streams within the special management areas and the mean high tide line where there is no beach;
  - (D) Any development which would substantially interfere with or detract from the line of sight toward the sea from the state highway nearest the coast; and
  - (E) Any development which would adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agricultural uses of land.”

SECTION 3. New statutory material is underscored.

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

(Approved April 12, 1994.)

## ACT 4

H.B. NO. 2326

A Bill for an Act Relating to the Jurisdictional Limit of the District Courts.

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

SECTION 1. Section 604-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

## ACT 5

“(a) Except as otherwise provided, the district courts shall have jurisdiction in all civil actions, where the debt, amount, or damages, or the value of the property claimed, does not exceed [\$10,000,] \$20,000, except in civil actions involving summary possession or ejectment, in which case, the district court shall have jurisdiction over any counterclaim otherwise properly brought before the district court by any defendant in such summary possession or ejectment action if the counterclaim arises out of and refers to the land or premises, the possession of which is being sought, regardless of the value of the debt, amount, damages, or property claim contained in the counterclaim. Attorney’s commissions or fees, including those stipulated in any note or contract sued on, interest, and costs, shall not be included in computing the jurisdictional amount. Subject to subsections (b) and (c), jurisdiction under this subsection shall be exclusive when the amount in controversy, so computed, does not exceed [\$5,000.] \$10,000.”

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

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

(Approved April 12, 1994.)

## ACT 5

H.B. NO. 2784

A Bill for an Act Relating to Statutory Revision: Amending, Reenacting, or Repealing Various Provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purpose of Correcting Errors and References, Clarifying Language, and Deleting Obsolete or Unnecessary Provisions.

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

SECTION 1. Section 46-17, Hawaii Revised Statutes, is amended to read as follows:

“**§46-17 Regulation of certain public nuisances.** Any provision of law to the contrary notwithstanding, the council of any county may adopt and provide for the enforcement of ordinances regulating or prohibiting noise, smoke, dust, vibration, or odors which constitute a public nuisance. No such ordinance shall be held invalid on the ground that it covers any subject or matter embraced within any statute or rule of the State; provided that in any case of conflict between the statute or rule and ordinance, the law which affords the most protection to the public shall apply; provided further that such ordinance shall not be effective to the extent that it is inconsistent with any permit for agricultural burning granted by the state department of health under authority of chapter [342,] 342B, or to the extent that it prohibits, subjects to fine or injunction, or declares to be a public nuisance any agricultural burning which is conducted in accordance with such a permit.”

SECTION 2. Section 342D-32, Hawaii Revised Statutes, is amended to read as follows:

“**[~~§342D-32~~] Negligent violations.** Any person who:

- (1) Negligently violates this chapter or any rule adopted by the department pursuant to this chapter, or any condition [or] in a permit issued under this chapter or any requirement imposed in a pretreatment program under this chapter; or
- (2) Negligently introduces into a sewerage system or into a publicly owned treatment works any water pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under 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. If a conviction of a person is for a violation committed after a first conviction of such person under this section, punishment shall be by a fine of not more than \$50,000 per day of violation, or by imprisonment of not more than two years, or by both.”

SECTION 3. Section 359A-3, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§359A-3]]~~ **Annual statements.** The Hawaii housing authority shall annually forward to the director of [social] human services and the director of finance a full, detailed description and financial statement of the planning, construction, repair, maintenance, and operation of teacher housing.”

SECTION 4. Section 452-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the department of commerce and consumer affairs for administrative purposes a state board of massage therapy consisting of five members.”

SECTION 5. Section 452-23, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Upon entry of either a final order of the board of massage therapy pursuant to chapter 91, or a judgment by a court of competent jurisdiction, finding that a massage therapist or massage therapy establishment has advertised in violation of section 452-2 or this section, the public utility furnishing telephone service to the massage therapist or massage therapy establishment shall disconnect the telephone number contained in the advertisement or listing.”

SECTION 6. Section 706-625, Hawaii Revised Statutes, is amended to read as follows:

“**§706-625 Revocation, modification of probation conditions.** [(a)] (1) The court, on application of a probation officer, the prosecuting attorney, the defendant, or on its own motion, after a hearing, may revoke probation, reduce or enlarge the conditions of a sentence of probation, pursuant to the provisions applicable to the initial setting of the conditions and the provisions of section 706-627.



## ACT 6

[(b)] (2) The prosecuting attorney, the defendant's probation officer, and the defendant shall be notified by the movant in writing of the time, place, and date of any such hearing, and of the grounds upon which action under this section is proposed. The prosecuting attorney, the defendant's probation officer, and the defendant may appear in the hearing to oppose or support the application, and may submit evidence for the court's consideration. The defendant shall have the right to be represented by counsel. For purposes of this section the court shall not be bound by the Hawaii Rules of Evidence, except for the rules pertaining to privileges.

[(c)] (3) The court shall revoke probation if the defendant has inexcusably failed to comply with a substantial requirement imposed as a condition of the order or has been convicted of a felony. The court may revoke the suspension of sentence or probation if the defendant has been convicted of another crime other than a felony.

[(d)] (4) The court may modify the requirements imposed on the defendant or impose further requirements, if it finds that such action will assist the defendant in leading a law-abiding life.

[(e)] (5) When the court revokes probation, it may impose on the defendant any sentence that might have been imposed originally for the crime of which he was convicted.

[(f)] (6) As used in this section, "conviction" means that a judgment has been pronounced upon the verdict."

SECTION 7. Act 195, Session Laws of Hawaii 1992, is amended by amending the prefatory language in section 3 to read as follows:

"SECTION 3. [Chapter] Section 431:10A-304, Hawaii Revised Statutes, is amended to read as follows:"

SECTION 8. This Act shall be amended to conform to all other acts passed by the legislature during this regular session of 1994, whether enacted before or after the effective date of this Act, unless the other acts specifically provided otherwise.

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

SECTION 10. This Act shall take effect upon its approval; provided that section 7 shall take effect retroactive to June 12, 1992.

(Approved April 12, 1994.)

## ACT 6

H.B. NO. 2818

A Bill for an Act Relating to the Uniform Simultaneous Death Act.

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

SECTION 1. Section 534A-6, Hawaii Revised Statutes, is amended to read as follows:

**“§534A-6 Exceptions.** [This chapter does apply if:] Survival by one hundred twenty hours is not required if:

- (1) The governing instrument contains language dealing explicitly with simultaneous deaths or deaths in a common disaster and that language is operable under the facts of the case;
- (2) The governing instrument expressly indicates that an individual is not required to survive an event, including the death of another individual, by any specified period or expressly requires the individual to survive the event for a [stated] specified period; but survival of the event or the specified period must be established by clear and convincing evidence;
- (3) The imposition of a [120-hour] one hundred twenty hour requirement of survival would cause a nonvested property interest or a power of appointment to [be invalid under the rule against perpetuities;] fail to qualify for validity under section 525-1(a)(1), (b)(1), or (c)(1) or to become invalid under section 525-1(a)(2), (b)(2), or (c)(2); but survival must be established by clear and convincing evidence; or
- (4) The application of [this section] a one hundred twenty hour requirement of survival to multiple governing instruments would result in an unintended failure or duplication of a disposition[.]; but survival must be established by clear and convincing evidence.”

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

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

(Approved April 12, 1994.)

## ACT 7

H.B. NO. 2968

A Bill for an Act Relating to the Judiciary History Center.

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

SECTION 1. Section 6F-5, Hawaii Revised Statutes, is amended to read as follows:

**“[[§6F-5]] Duties; scope of work.** The board shall establish a comprehensive program which shall include, but not be limited, to the following:

- (1) Managing and opening the center to the general public for educational, historical, and cultural purposes;
- (2) Collecting, preserving, displaying, and interpreting objects and documents that are representative of our judicial heritage;
- (3) Cooperating with, and providing technical assistance to the judiciary and other public and private agencies involved in developing and implementing programs in historic preservation activities related to the judiciary;
- (4) Conducting research in the field of Hawaiian judicial history and

ACT 8

- making the benefits of [such] the research and study available to the public;
- (5) Stimulating and promoting public interest and awareness of Hawaiian judicial history by providing interpretive and information services for use in the schools of the State which will aid in a better understanding of the history of the judiciary;
- (6) Selecting and employing an executive director to serve on a full-time basis who is qualified by training and experience. The executive director shall administer policies and programs approved by the board and exercise supervision [of] over the center's activities;
- (7) Employing personnel as required to operate and maintain the center. Employees of the center shall be exempt from chapters 76 and 77, and shall not be considered civil service employees but shall be entitled to any employee benefit plan normally inuring to civil service employees; and
- (8) Doing other things necessary to accomplish the purposes of this chapter including the adoption, amending, or repeal of rules [in accordance with chapter 91].”

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

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

(Approved April 12, 1994.)

ACT 8

H.B. NO. 2986

A Bill for an Act Relating to Notice of Adoption.

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

SECTION 1. Section 578-4, Hawaii Revised Statutes, is amended to read as follows:

“**§578-4 Notice to resident nonconsenting legal parent whose rights have not been terminated.** If a legal parent to whom notice must be given as aforesaid is within the State, a summons issuing under the seal of the court and containing a notification as to the time and place of hearing, shall be served by the sheriff or the sheriff’s deputy, [or] any police officer, or any person authorized by court rule, upon such parent by the delivery to the parent of a certified copy thereof, and of the petition for adoption; or in case the parent cannot be found, by leaving copies of the summons and petition with some agent or person transacting the business of the parent, or by leaving such copies at the parent’s last known place of residence. When service is made pursuant to this section, the time appointed for the hearing of the petition shall be not less than ten days subsequent to the date of service as herein provided.”

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

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

(Approved April 12, 1994.)

## ACT 9

H.B. NO. 2988

A Bill for an Act Relating to Service of Process.

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

SECTION 1. Section 634-21, Hawaii Revised Statutes, is amended to read as follows:

**“§634-21 Service of process, by whom.** Except as otherwise provided, service of all process and orders shall be made by the sheriff or the sheriff’s deputy, the chief of police of the county in which the service is made or the chief’s duly authorized subordinate, some other person specially appointed by the court for the purpose, any investigator appointed and commissioned by the director of commerce and consumer affairs pursuant to section 26-9(j), or a [process server licensed pursuant to chapter 634D.] person authorized by the rules of court.”

SECTION 2. Section 634-22, Hawaii Revised Statutes, is amended to read as follows:

**“§634-22 Return.** In all cases where any process or order of a court is served by any officer of the court or of the police force or the sheriff or the sheriff’s deputies or any investigator appointed and commissioned by the director of commerce and consumer affairs pursuant to section 26-9(j), a record thereof shall be endorsed upon the back of the process, complaint, order, or citation. The record shall state the name of the person served and the time and place of service and shall be signed by the officer making the service. If the officer fails to make service the officer, in like manner, shall endorse the reason for the officer’s failure and sign this record. When service is made by a person specially appointed by the court, or a [licensed process server,] person authorized by rules of court, the person [or process server] shall make affidavit of that service.

The record or the affidavit shall be prima facie evidence of all it contains, and no further proof thereof shall be required unless either party desires to examine the officer or person making service, in which case the officer or person shall be notified to appear for examination.”

SECTION 3. Chapter 634D, Hawaii Revised Statutes, is repealed.

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

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

(Approved April 12, 1994.)

ACT 10

H.B. NO. 3192

A Bill for an Act Relating to a Tax Administration Fund.

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

SECTION 1. Act 30, Session Laws of Hawaii 1993, is repealed.

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

(Approved April 12, 1994.)

ACT 11

H.B. NO. 3406

A Bill for an Act Relating to Name Changes for Hilo and Kona Hospitals.

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

SECTION 1. The legislature finds that a name change for Hilo and Kona Hospitals would more accurately reflect these hospitals' missions and the services they provide to the community.

SECTION 2. Section 323-61, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~323-61] **Definitions.** The following terms, whenever used or referred to in this part, shall have the following meanings, unless the context clearly requires a different meaning:

"Administrator" means the administrator of a public health facility.

"Department" means the department of health.

"Division" means the division of community hospitals of the department of health.

"Public health facility" means any of the following health care facilities and all other health care facilities that may hereafter be placed within the jurisdiction of the division:

- (1) Hana Medical Center, Hana, Maui;
- (2) Hilo [Hospital,] Medical Center, Hilo, Hawaii;
- (3) Honokaa Hospital, Honokaa, Hawaii;
- (4) Kau Hospital, Pahala, Hawaii;
- (5) Kauai Veterans Memorial Hospital, Waimea, Kauai;
- (6) Kohala Hospital, Kohala, Hawaii;
- (7) Kona Community Hospital, Kealahou, Hawaii;
- (8) Kula Hospital, Keokea, Maui;
- (9) Lanai Community Hospital, Lanai City, Lanai;
- (10) Leahi Hospital, Honolulu, Oahu;
- (11) Maluhia, Honolulu, Oahu;
- (12) Maui Memorial Hospital, Wailuku, Maui; and
- (13) Samuel Mahelona Memorial Hospital, Kapaa, Kauai."

SECTION 3. Act 211, Session Laws of Hawaii 1993, is amended by amending sections 1 and 2 to read as follows:

“SECTION 1. The legislature finds that the pilot project to foster autonomous operation of Maui Memorial Hospital, Hilo [Hospital,] Medical Center, and Kona Community Hospital, has contributed effectively to expediting and improving the delivery of health care services by Hawaii’s public hospital system. Autonomous operation refers to a method of hospital management that decentralizes health care decision making and fosters local health care professional participation at the hospital level.

This pilot project, which was established through Act 223, Session Laws of Hawaii 1990, as amended by Act 187, Session Laws of Hawaii 1992, will be repealed on June 30, 1993. This pilot project has demonstrated positive benefits to the operating efficiency and the financial performance of the three hospitals.

The purpose of this Act is to expand the pilot project to include the one remaining acute care hospital and the four long-term care hospitals. The duration of the pilot project shall be for a three-year period.

SECTION 2. The department of health, through its director, shall formulate policies for the autonomous operation of the community hospitals until June 30, 1996. The provisions of this Act shall apply to Hilo [Hospital,] Medical Center, Maui Memorial Hospital, Kona Community Hospital, Kauai Veterans Memorial Hospital, Leahi Hospital, Maluhia Hospital, Kula Hospital, and Samuel Mahelona Memorial Hospital.”

SECTION 4. Any laws and acts relating to Hilo and Kona Hospitals passed by the legislature during the Regular Session of 1994, shall be effective according to its terms, notwithstanding the passage of this Act; and any provision of this Act which is contrary to other acts shall be amended to conform to those acts, regardless of the effective date of the acts. The revisor of statutes shall incorporate the terms of the other acts into the appropriate sections in this Act.

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

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

(Approved April 12, 1994.)

## ACT 12

H.B. NO. 3417

A Bill for an Act Relating to Certain Revocable Trusts.

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

SECTION 1. The purpose of this Act is to amend the general excise tax law to clarify the law to conform with the state and federal income tax laws on the issue of the registration and filing requirements for certain revocable trusts. This Act clarifies that certain revocable trusts are not subject to licensing or filing requirements or tax liability under chapter 237, Hawaii Revised Statutes, separate and apart from the grantors of the trusts. In the case of any such trust, the individual or individuals, and not the trust, is required to file the tax returns and pay any general excise taxes due.

## ACT 13

SECTION 2. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§237- No separate licensing, filing, or liability for certain revocable trusts.** In the case of any trust that, for state and federal income tax reporting purposes:

- (1) Has no registration or filing requirements separate and apart from its grantor or grantors;
- (2) Is subject to the requirement that all items of income, deduction, and credit are to be reported by the individual grantor or grantors; and
- (3) Is revocable by the grantor or grantors;

no licensing, registration, or filing requirements under this chapter shall apply; provided that the individual grantor or grantors must be licensed under this chapter and pay the appropriate general excise tax on trust income, if the trust income is from engaging in business.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1994.

(Approved April 12, 1994.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 13

S.B. NO. 2963

A Bill for an Act Relating to Conformity to the Internal Revenue Code.

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

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§235- Innocent spouse relieved of liability in certain cases.** (a) If a husband and wife have made a joint return under this chapter for a taxable year, and:

- (1) On the return there is a substantial understatement of tax attributable to grossly erroneous items of one spouse,
- (2) The innocent spouse establishes that in signing the return the innocent spouse did not know, and had no reason to know, that there was a substantial understatement, and
- (3) Taking into account all the facts and circumstances, it is inequitable to hold the innocent spouse liable for the deficiency in tax for the taxable year attributable to the substantial understatement,

then the innocent spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for the taxable year to the extent the liability is attributable to the substantial understatement.

(b) If the spouse's adjusted gross income for the preadjustment year is \$20,000 or less, this section shall apply only if the liability described in subsection (a) is greater than ten per cent of the spouse's adjusted gross income. If the spouse's adjusted gross income for the preadjustment year is more than \$20,000, this section shall apply only if the liability described in subsection (a) is greater

than twenty-five per cent of the spouse's adjusted gross income. If the spouse is married to another spouse at the close of the preadjustment year, the spouse's adjusted gross income shall include the income of the new spouse (whether or not they file a joint return).

(c) For purposes of this section,

"Grossly erroneous items" mean, with respect to any spouse, any item of gross income attributable to the spouse which is omitted from gross income and any claim of a deduction, credit, or basis by the spouse in an amount for which there is no basis in fact or law.

"Preadjustment year" means the most recent taxable year of the spouse ending before the date the deficiency notice is mailed.

"Substantial understatement" means any understatement which exceeds \$500.

"Understatement" means the excess of:

- (1) The amount of the tax required to be shown on the return for the taxable year, over
- (2) The amount of the tax imposed which is shown on the return, reduced by any abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed by this chapter was less than the excess of the amount which is the sum of:
  - (A) The amount shown as the tax on the taxpayer's return, if a return was made by the taxpayer and an amount was shown as tax by the taxpayer on the return, plus
  - (B) The amounts previously assessed (or collected without assessment) as a deficiency, over the abatements, credits, refunds, or other repayments previously made."

SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is amended to read as follows:

**"§235-2.3 Conformance to the federal Internal Revenue Code; general application.** (a) For all taxable years beginning after December 31, [1992,] 1993, as used in this chapter "Internal Revenue Code" means subtitle A, chapter 1 of the federal Internal Revenue Code of 1954 as amended as of December 31, [1992,] 1993, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income except those provisions of the Internal Revenue Code and federal Public Law which pursuant to this chapter, this section, and sections 235-2.4 and 235-2.5 do not apply or are otherwise limited in application; provided that section 1202 (with respect to deductions for capital gains) of the Internal Revenue Code of 1954 as amended as of December 31, 1986, shall be operative for the purposes of this chapter until March 31, 1987, and shall apply to any capital gains properly taken before April 1, 1987, except that the deduction provided in section 1202(a) shall be fifty-five per cent of the net capital gain.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine (1) the basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978, and (2) gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978.

(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of subsections shall not be operative for the purposes of this chapter, unless otherwise provided:



- (1) Subchapter A (sections 1 to 59A) (with respect to determination of tax liability), except section 42 (with respect to the low-income housing credit) and except sections 47 and 48, as amended, as of December 31, 1984 (with respect to certain depreciable tangible personal property). For treatment, see sections 235-110.7 and 235-110.8.
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 86 (with respect to social security and tier 1 railroad retirement benefits).
- (4) Section 103 (with respect to interest on state and local bonds). For treatment, see section 235-7(b).
- (5) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see section 235-7(a)(9) to (11).
- (6) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).
- (7) Section 135 (with respect to income from United States saving bonds used to pay higher education tuition and fees). For treatment, see section 235-7(a)(1).
- (8) Subchapter B (sections 141 to 150) (with respect to tax exemption requirements for state and local bonds).
- (9) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- (10) Section 196 (with respect to deduction for certain unused investment credits).
- (11) Sections 241 to 247 (with respect to special deductions for corporations). For treatment, see section 235-7(c).
- (12) Section 269A (with respect to personal service corporations formed or availed of to avoid or evade income tax).
- (13) Section 280C (with respect to certain expenses for which credits are allowable).
- (14) Section 291 (with respect to special rules relating to corporate preference items).
- (15) Section 367 (with respect to foreign corporations).
- (16) Section 501(c)(12), (15), (16) (with respect to exempt organizations).
- (17) Section 515 (with respect to taxes of foreign countries and possessions of the United States).
- (18) Section 521 (with respect to exemption of farmers cooperatives from tax). For treatment, see section 421-23.
- (19) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
- (20) Subchapter H (sections 581 to 597) (with respect to banking institutions). For treatment, see chapter 241.
- (21) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
- (22) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
- (23) Subchapter L (sections 801 to 848) (with respect to insurance companies). For treatment, see sections 431:7-202 and 431:7-204.
- (24) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
- (25) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States), except part IV (sections 991 to 997) (with respect to domestic international

- sales corporations). For treatment, see sections 235-4, 235-5, and 235-7(b).
- (26) Section 1055 (with respect to redeemable ground rents).
- (27) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
- (28) Subchapter Q (sections 1311 to 1351) (with respect to readjustment of tax between years and special limitations).
- (29) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421.
- (30) Subchapter U (sections 1391 to 1397D) (with respect to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas). For treatment, see chapter 209E."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval; provided that section 1 shall apply to deficiency notices sent by the department of taxation to the taxpayers after December 31, 1990, for which relief of liability has been obtained pursuant to section 6013(e), of the Internal Revenue Code of 1986, as amended; and provided that section 2 shall apply to taxable years beginning after December 31, 1993.

(Approved April 12, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 14

H.B. NO. 3145

A Bill for an Act Relating to Housing.

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

SECTION 1. Chapter 201E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§201E- Exception of current owners in corporation projects.** The corporation may allow a person who is a current owner of a multi-family dwelling unit in a project sponsored by the corporation to apply for the purchase of a larger dwelling unit in a project sponsored by the corporation if the applicant's family size exceeds the permissible maximum family size for the applicant's current dwelling unit, as determined by the corporation. The applicant shall be required to sell the applicant's current dwelling unit back to the corporation. Notwithstanding any law to the contrary, any applicant, as it pertains to for-sale housing, shall be a "qualified resident" who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is at least eighteen years of age;
- (3) Is domiciled in the State and shall physically reside in the dwelling unit purchased under this chapter;
- (4) In the case of purchase of real property in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the

## ACT 15

- purchase; and
- (5) Except for the applicant's current residence, meets the following qualifications:
- (A) Is a person who either oneself or together with spouse, does not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes, or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to such land; and
- (B) Is a person whose spouse does not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to such land, except when husband and wife are living apart under a decree of separation from bed and board issued by the family court pursuant to section 580-71."

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved April 15, 1994.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 15

H.B. NO. 3187

A Bill for an Act Relating to the Payment of Interest on Taxes.

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

SECTION 1. Section 231-39, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) There shall be added to and become a part of the tax imposed by such tax or revenue law, and collected as such:

- (1) Failure to file tax return. In case of failure to file any tax return required to be filed on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that the failure is due to reasonable cause and not due to neglect, there shall be added to the amount required to be shown as tax on the return five per cent of the amount of the tax if the failure is for not more than one month, with an additional five per cent for each additional month or fraction thereof during which the failure continues, not exceeding twenty-five per cent in the aggregate. For purposes of this paragraph, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return. This paragraph shall not apply to any failure to file a declaration of estimated tax required by section 235-97.
- (2) Failure to pay tax.
- (A) If any part of any underpayment is due to negligence or

- intentional disregard of rules (but without intent to defraud), there shall be added to the tax an amount up to twenty-five per cent of the underpayment as determined by the director.
- (B) If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount up to fifty per cent of the underpayment as determined by the director.
- (C) If any penalty is assessed under subparagraph (B) (relating to fraud) for an underpayment of tax which is required to be shown on a return, no penalty under paragraph (1) (relating to failure to file the return) shall be assessed with respect to the same underpayment.
- (3) Failure to pay tax after filing timely returns. If a return is filed on or before the date prescribed therefor and the amount shown as tax on the return is not completely paid within sixty days of the prescribed filing date, there shall be added to the unpaid tax an amount up to twenty per cent as determined by the director.
- (4) Interest on underpayment or nonpayment of tax.
- (A) If any amount of tax is not paid on or before the last date prescribed for payment, interest on such amount at the rate of two-thirds of one per cent a month or fraction of a month shall be paid for the period beginning with the first calendar day [following] after the date prescribed for payment, [or if the prescribed date for payment is the end of a calendar month, and section 231-21 is applicable, beginning with the first calendar day after the due date so extended,] section 231-21 to the contrary notwithstanding, to the date paid.
- (B) If the amount of any tax is reduced by reason of a carryback of a net operating loss allowed under chapter 235, such reduction in tax shall not affect the computation of interest under this paragraph for the period ending with the last day of the taxable year in which the net operating loss arises.
- (C) Interest prescribed under this paragraph on any tax shall be paid upon notice and demand, and shall be assessed, collected, and paid in the same manner as taxes.
- (D) No interest under this paragraph shall be imposed on interest provided by this paragraph.
- (E) If any portion of a tax is satisfied by credit of any overpayment, then no interest shall be imposed under this paragraph on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowable with respect to the overpayment.
- (F) Interest prescribed under this paragraph on any tax may be assessed and collected at any time during the period within which the tax to which the interest relates may be collected.
- (G) This paragraph shall not apply to any failure to pay estimated tax required by section 235-97.”

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

SECTION 3. This Act shall take effect on January 1, 1995.

(Approved April 15, 1994.)

A Bill for an Act Relating to Disaster Relief.

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

SECTION 1. Section 231-15.6, Hawaii Revised Statutes, is amended to read as follows:

**"§231-15.6 Returns of corporations or partnerships.** The returns, statements, or answers required by chapter [234,] 235, 236D, 237, 237D, 238 to 243, 244D, 245, 247, or 251, in the case of a corporation, shall be made by any officer of the corporation, or in the case of a partnership, by any one of the partners."

SECTION 2. Section 231-15.7, Hawaii Revised Statutes, is amended to read as follows:

**"§231-15.7 Returns by fiduciaries.** The returns, statements, or answers required by chapter [234,] 235, 236D, 237, 237D, 238 to 243, 244D, 245, 247, or 251, shall be made by the personal representative, trustee, guardian, or other fiduciary in such capacity in any taxation district in which returns are required."

SECTION 3. Chapter 234, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed.

SECTION 5. This Act shall take effect upon its approval; provided any active or filed claims as of the effective date of this Act shall not be affected by the repeal of chapter 234.

(Approved April 15, 1994.)

A Bill for an Act Relating to Recovery Costs Associated with Hurricane Iniki.

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

SECTION 1. Act 335, Session Laws of Hawaii 1993, is amended by amending section 1 to read as follows:

**"SECTION 1.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,500,000, or so much thereof as may be necessary for fiscal year 1993-1994, and the sum of \$5,000,000, or so much thereof as may be necessary for fiscal year 1994-1995, to reimburse the county of Kauai for real property taxes remitted, refunded, or forgiven under chapter 234, Hawaii Revised Statutes[.]; provided that the following designated portions of the reimbursement sums for fiscal year 1993-1994 and fiscal year 1994-1995 may also be used for the following purposes:

- (1) Fulfilling the State's contractual agreement with the Federal Emergency Management Agency for disaster assistance (debris removal and protective measures) disbursed to the county of Kauai by designating \$436,000, or so much thereof as may be necessary, to meet the

- required twenty-five per cent in State matching funds to the county;
- (2) Restoring, replacing, or repairing all hurricane damaged county facilities and appurtenances, including park and recreational complexes and designated civil defense shelters, by designating \$3,500,000, or so much thereof as may be necessary, provided that not more than \$1,000,000 shall be used for a joint civil defense emergency operating center/police headquarters facility, including land acquisition;
  - (3) Funding a systematic intervention effort for school-based psychological support in public schools on the island of Kauai, including an assessment program to identify students at risk for continuing hurricane related distress, an intervention program to address the needs of such students, and contractual services for consultant and training support for administrators, teachers, and counselors to assist in dealing with psychological problems generated by Hurricane Iniki, by designating \$800,000, or so much thereof as may be necessary for this purpose;
  - (4) Continuing to fund efforts which address the post-traumatic distress of Kauai's children and youth, including alternative activities during after school hours and the summer months, by designating \$110,000, or so much thereof as may be necessary for this purpose; and
  - (5) Funding economic recovery programs on Kauai by designating \$500,000, or so much thereof as may be necessary, which is to be used as "good faith moneys" to secure firm commitments for federal matching funds on at least a one to one ratio.

The sums appropriated shall be expended by the department of budget and finance for the purposes of this Act."

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

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

(Approved April 15, 1994.)

## ACT 18

S.B. NO. 2966

A Bill for an Act Relating to Income Tax Refunds.

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

SECTION 1. Section 235-111, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Limitations on credit or refund. Claim for credit or refund of an overpayment of any tax imposed by this chapter shall be filed by the taxpayer or employer within three years from the time the return was filed or from the due date prescribed for the filing of the return, or within two years from the time the tax was paid, whichever is later. [No credit or refund shall be allowed or made after three years from the due date of the return unless a claim for credit or refund is filed by the taxpayer or employer within that time.] For the purposes of this section, taxes paid before the due date of the return shall be deemed to have been paid on the due date of the return determined without regard to any extensions.

## ACT 19

- (1) If the claim was filed by the taxpayer during the three-year period prescribed in this subsection, the amount of the credit or refund shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to three years plus the period of any extension of time for filing the return.
- (2) If the claim was not filed within the three-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the two years immediately preceding the filing of the claim.
- (3) If no claim was filed, the credit or refund shall not exceed the amount which would be allowable under paragraph (1) or (2), as the case may be, if the claim was filed on the date the credit or refund is allowed."

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval and shall apply to credits or refunds claimed or made after December 31, 1993.

(Approved April 15, 1994.)

## ACT 19

S.B. NO. 2970

A Bill for an Act Relating to Administrative Tax Refunds.

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

SECTION 1. Section 236D-13, Hawaii Revised Statutes is amended to read as follows:

"**[§236D-13] Refund for overpayment.** Whenever the tax due under this chapter is proved to have been overpaid, the department shall refund the amount of the overpayment, together with interest at the then existing statutory rate of interest in the manner provided in section 231-23(d). No claim for refund may be initiated more than two years after the date the federal tax has been finally determined.

As to all tax payments for which a refund or credit is not authorized by this section (including, without prejudice to the generality of the foregoing, cases of unconstitutionality), the remedies provided by appeal or by section 40-35 are exclusive."

SECTION 2. Section 237D-10, Hawaii Revised Statutes, is amended to read as follows:

"**§237D-10 Overpayment; refunds.** Upon application by an operator, if the director determines that any tax, interest, or penalty has been paid more than once, or has been erroneously or illegally collected or computed, the tax, interest, or penalty shall be credited by the director on any taxes then due from the operator under this chapter. The director shall refund the balance to the operator or the operator's successors, administrators, executors, or assigns in accordance with section 231-23. No credit or refund shall be allowed for any tax imposed by this chapter, unless a claim for such credit or refund [shall be filed within three years

after the annual return was filed, or in any case of payment of tax without the filing of an annual return, within three years after payment of tax, or within three years of the date prescribed for the filing of the annual return, whichever is later.] is filed as follows:

- (1) If an annual return is timely filed, or is filed within three years after the date prescribed for filing the annual return, then the credit or refund shall be claimed within three years after the date the annual return was filed or the date prescribed for filing the annual return, whichever is later.
- (2) If an annual return is not filed, or is filed more than three years after the date prescribed for filing the annual return, a claim for credit or refund shall be filed within:
  - (A) Three years after the payment of the tax; or
  - (B) Three years after the date prescribed for the filing of the annual return,  
whichever is later.

Paragraphs (1) and (2) are mutually exclusive. The preceding limitation shall not apply to a credit or refund pursuant to an appeal, provided for in section 237D-11.

As to all tax payments for which a refund or credit is not authorized by this section (including, without prejudice to the generality of the foregoing, cases of unconstitutionality), the remedies provided by appeal or by section 40-35 are exclusive."

SECTION 3. Section 243-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The amount of license taxes imposed by this chapter shall be assessed or levied, or the overpayment, if any, shall be credited within three years after filing of the monthly statement, or within three years of the due date prescribed for the filing of the statement, whichever is later. No proceeding in court without assessment for the collection of the taxes or the enforcement of the liability shall begin after the expiration of the three year period. As to all tax payments for which a refund or credit is not authorized by this section (including, without prejudice to the generality of the foregoing, cases of unconstitutionality), the remedies provided by appeal or by section 40-35 are exclusive."

SECTION 4. Section 247-8, Hawaii Revised Statutes, is amended to read as follows:

"**§247-8 Refunds.** The director of taxation may order the refund in whole or in part of any tax which has been erroneously or unjustly paid. The order shall be made in accordance with section 231-23. As to all tax payments for which a refund or credit is not authorized by this section (including, without prejudice to the generality of the foregoing, cases of unconstitutionality), the remedies provided by appeal or by section 40-35 are exclusive."

SECTION 5. Section 251-9, Hawaii Revised Statutes, is amended to read as follows:

"**[§251-9] Overpayment; refunds.** Upon application by a person, if the director determines that any surcharge tax, interest, or penalty has been paid



## ACT 20

more than once, or has been erroneously or illegally collected or computed, the surcharge tax, interest, or penalty shall be credited by the director on any surcharge taxes then due from the person under this chapter. The director shall refund the balance to the person or the person's successors, administrators, executors, or assigns in accordance with section 231-23(d). No credit or refund shall be allowed for any surcharge tax imposed by this chapter, unless a claim for the credit or refund [shall be filed within three years after the annual return was filed, or in any case of payment of surcharge tax without the filing of an annual return, within three years after payment of surcharge tax, or within three years of the date prescribed for the filing of the annual return, whichever is later.] is filed as follows:

- (1) If an annual return is timely filed, or is filed within three years after the date prescribed for filing the annual return, then the credit or refund shall be claimed within three years after the date the annual return was filed or the date prescribed for filing the annual return, whichever is later.
- (2) If an annual return is not filed, or is filed more than three years after the date prescribed for filing the annual return, a claim for credit or refund shall be filed within:
  - (A) Three years after the payment of the tax; or
  - (B) Three years after the date prescribed for the filing of the annual return,whichever is later.

Paragraphs (1) and (2) are mutually exclusive. The preceding limitation shall not apply to a credit or refund pursuant to an appeal, provided for in section 251-10.

As to all tax payments for which a refund or credit is not authorized by this section (including, without prejudice to the generality of the foregoing, cases of unconstitutionality), the remedies provided by appeal or by section 40-35 are exclusive."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved April 15, 1994.)

## ACT 20

S.B. NO. 2971

A Bill for an Act Relating to the Statute of Limitations.

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

SECTION 1. Section 231-3.5, Hawaii Revised Statutes, is amended to read as follows:

**"[~~§~~231-3.5] Suspension of running of the period of limitation during bankruptcy proceedings.** The running of the period of limitation provided in chapters 235 to 239, 241 to 245, 236D, 237D, [and] 244D, and 251, to the contrary notwithstanding, shall be suspended for the period during which the director of taxation is prohibited from making an assessment of taxes by reason of title 11 (with respect to bankruptcy) of the United States Code and for sixty days after the prohibition is lifted."

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

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

(Approved April 15, 1994.)

## ACT 21

S.B. NO. 3047

A Bill for an Act Relating to Deposits of Public Funds.

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

SECTION 1. Section 38-2, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) All deposits of money, except time deposits, shall be paid upon demand on checks signed by the director and countersigned by the comptroller, or by the payment of a certificate of deposit issued by the depository, which certificate shall be endorsed by the payee named therein, as well as by the comptroller[.], or by preauthorized automatic transfer of funds between transaction accounts held within the same depository. Transaction accounts, as defined in Regulation D of the Federal Reserve System, as authorized by Section 19 (12 USC 461 et seq.) of the Federal Reserve Act, includes all checking accounts, both demand and interest bearing. Each depository shall at the end of every month render to the director a statement, in duplicate, for each of the funds of the State, showing the daily balances on open commercial account which were held by it during the month. The duly authorized representatives of any depository shall at all times during office hours have access to the securities deposited by the depository to secure the deposits of the State for the purpose of examining the same and removing the coupons that may have matured, the examination to be made in the presence of the director or the director’s representative.”

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

SECTION 3. This Act shall take effect on July 1, 1994.

(Approved April 15, 1994.)

## ACT 22

H.B. NO. 1642

A Bill for an Act Relating to the Family Courts.

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

SECTION 1. The purpose of this Act is to allow the family court to use school attendance records as prima facie evidence of a child’s nonattendance at school or nonreceipt of educational services.

SECTION 2. Section 571-21, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) In children’s cases, under section 571-11(1) and (2), the petition and all subsequent court documents shall be suitably entitled so as to indicate that the proceeding is in the interest of rather than against the child or minor involved. The petition shall be verified and statements may be made upon information and belief. It shall set forth plainly: (1) the facts which bring the child within the purview of this chapter; (2) the name, age, and residence of the child; (3) the names and residences of the child’s parents; and (4) the name and residence of the child’s legal guardian if there be one, of the person or persons having custody or control of the child, or of the nearest known relative if no parent or guardian can be found. If any of the facts required are not known by the petitioner the petition shall so state. In cases brought pursuant to section [571-11(2)(C),] 571-11(2)(A) and (C), a certified copy of the child’s school attendance records shall constitute prima facie evidence of the child’s nonattendance at school or nonreceipt of educational services. A certified copy is defined as a copy signed by the principal and educator of the child from whose class the child did not attend.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun prior to its effective date.

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

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

(Approved April 20, 1994.)

**ACT 23**

H.B. NO. 2319

A Bill for an Act Relating to Parentage.

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

SECTION 1. Section 338-12, Hawaii Revised Statutes, is amended to read as follows:

“**§338-12 Evidentiary character of certificates.** Certificates filed within thirty days after the time prescribed therefor shall be prima facie evidence of the facts therein stated. Data pertaining to the father of a child is prima facie evidence [only] if [the]:

- (1) The alleged father is [the]:
  - (A) The husband of the mother; or [if the alleged father is the]
  - (B) The acknowledged father of the child; or [if the]
- (2) The father and child relationship has been established under chapter 584; if not, the data pertaining to the father of the child are not evidence in any proceeding adverse to the interest of the alleged father, or of his heirs, next of kin, devisees, or other successors in interest, if the paternity is controverted]. Data pertaining to the alleged father acknowledging paternity of the child is admissible as evidence of paternity in any family court proceeding, including proceedings under chapter 584.”

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

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

(Approved April 20, 1994.)

## ACT 24

H.B. NO. 3138

A Bill for an Act Relating to Child Support Enforcement.

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

SECTION 1. Section 576D-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In order to carry out its responsibilities imposed under this chapter, the agency, through the offices of the corporation counsel, the county attorneys, or the attorney general, may commence or appear in any proceeding before any court or administrative agency for the purpose of establishing paternity for children born out of wedlock or for the purpose of obtaining, enforcing, or modifying an order of support on behalf of any dependent or any other person for whom the agency has a duty to obtain or enforce an order of support under this chapter. The agency may commence or appear in any action on its own behalf, on behalf of any dependent child or custodial parent, or on behalf of any other person for whom the agency has a duty to obtain or enforce an order of support under this chapter. The agency shall obtain or enforce a child support order for the following children:

- (1) A child on whose behalf public assistance payments have been or are being made;
- (2) A child on whose behalf foster care payments have been or are being made under Title IV-E; [or]
- (3) A child on whose behalf a custodial parent, guardian, or other person having custody applies to the agency for assistance in obtaining or enforcing a child support order, whether or not public assistance payments have been made on the child’s behalf[.]; or
- (4) A child on whose behalf an order for child support requires child support payments to be paid through the child support enforcement agency. The signature of a judge or administrative hearings officer on the order for child support shall be considered an application for services.”

SECTION 2. Section 576D-6, Hawaii Revised Statutes, is amended to read as follows:

“**§576D-6 Other duties of agency.** (a) The agency shall:

- (1) Establish a state parent locator service[.]; for the purpose of locating absent and custodial parents;
- (2) Cooperate with other states in:
  - (A) Establishing paternity, if necessary;
  - (B) Locating an absent parent who is present in the State and against whom any action is being taken under a Title IV-D program in any other state; and

- (C) Securing compliance by such an absent parent with a support order issued by a court of competent jurisdiction in another state;
- (3) Perform periodic checks of whether a [debtor] parent is collecting unemployment compensation and, if so, to arrange, either through agreement with the [debtor] parent or by bringing legal process, to have a portion of the compensation withheld, to fulfill the parent's [delinquent] child support obligations;
  - (4) Notify annually each custodial parent, guardian, protective payee, or other person having custody of the child of an Aid to Families with Dependent Children family of the amount of child support collected on behalf of the child in the family. For the purpose of this section, "Aid to Families with Dependent Children family" means a family which receives financial assistance under the federal Aid to Families with Dependent Children program;
  - (5) Establish and utilize procedures which shall require a debtor parent to give security, post bond, or give some other guarantee to secure payment of delinquent child support. The procedures shall apply to all debtor parents of children described under section 576D-3. The procedures shall include advance notice to the debtor parent in full compliance with the State's procedural due process requirements. The agency shall develop guidelines, which are available to the public, to determine whether the case is inappropriate for application of this requirement;
  - (6) Establish and utilize procedures by which information regarding the amount of delinquent child support owed by a debtor parent residing in the State will be made available to any consumer reporting agency. The procedures shall be effectuated after the delinquency reaches \$1,000, shall be in compliance with the limitations under Title IV-D, and shall include provisions on advance notice to the debtor parent of the procedures, which shall be in full compliance with the State's procedural due process requirements, to contest the accuracy of the information;
  - (7) Establish and utilize procedures which will impose liens against the real and personal property of a debtor parent who owes overdue support and who resides or owns property in the State. The agency shall further establish guidelines which are available to the public to determine whether the case is inappropriate for application of this paragraph;
  - (8) Establish and utilize procedures for the notification of a custodial parent that any income tax refund setoff under section 231-53 shall be credited to child support debts for past public assistance or foster care maintenance before any other debt;
  - (9) Establish and utilize procedures for prompt reimbursements of overpayments of child support debts from income tax refund setoffs under section 231-53. The procedures shall provide for the reimbursements to be made by the custodial parent or agency;
  - (10) Establish and utilize procedures for periodic review and modification of child support orders in accordance with Title IV-D; and
  - (11) Perform other duties required under Title IV-D.
- (b) The procedures required under subsection (a)(5), (6), (7), (8), (9), and (10) shall be established by rule in accordance with chapter 91."

SECTION 3. Section 576D-11, Hawaii Revised Statutes, is amended to read as follows:

“§576D-11 Staff. The head of the appropriate department shall appoint, pursuant to chapters 76 and 77, an administrator and such other personnel as may be required to discharge the functions of the child support enforcement agency. The head of the appropriate department shall commission child support enforcement investigators who shall have and may exercise all the powers and authority of a police officer or a deputy sheriff to fulfill their official responsibilities; provided that persons so appointed and commissioned shall not carry firearms. The duties of the commissioned investigators shall be to locate absent parents, to establish paternity, and to obtain and enforce court orders of support. The child support enforcement [investigators] agency shall have access, including automated inquiry access, to the records of any agency, board, commission, authority, court, or committee of the State or its political subdivisions notwithstanding any provisions for confidentiality except that the child support enforcement agency shall be subject to the same restrictions on disclosure of the records as the originating agency pursuant to section 92F-19(b).”

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

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

(Approved April 20, 1994.)

## ACT 25

H.B. NO. 3511

A Bill for an Act Relating to Hawaii Rules of Evidence.

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

SECTION 1. Section 626-1, Hawaii Revised Statutes, is amended by amending rule 404 to read as follows:

“**Rule 404 Character evidence not admissible to prove conduct; exceptions; other crimes.** (a) Character evidence generally. Evidence of a person’s character or a trait of [his] a person’s character is not admissible for the purpose of proving [that he acted] action in conformity therewith on a particular occasion, except:

- (1) Character of accused. Evidence of a pertinent trait of [his] character of an accused offered by an accused, or by the prosecution to rebut the same;
- (2) Character of victim. Evidence of a pertinent trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;
- (3) Character of witness. Evidence of the character of a witness, as provided in rules 607, 608, 609, and 609.1.

(b) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show [that he

## ACT 26

acted] action in conformity therewith. It may, however, be admissible where such evidence is probative of another<sup>1</sup> fact that is of consequence to the determination of the action, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, modus operandi, or absence of mistake or accident. In criminal cases, the proponent of evidence to be offered under this subsection shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the date, location, and general nature of any such evidence it intends to introduce at trial."

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 statutory material is underscored.

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

(Approved April 20, 1994.)

### Note

1. Prior to amendment "any other" appeared here.

## ACT 26

H.B. NO. 2318

A Bill for an Act Relating to Parentage.

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

SECTION 1. Chapter 584, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§584- Paternity determinations from other states and territories.** Paternity determinations from other states and territories, whether established through voluntary acknowledgment or through administrative or judicial processes, shall be treated the same as a paternity adjudication in this State."

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved April 22, 1994.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 27

H.B. NO. 2320

A Bill for an Act Relating to Paternity.

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

SECTION 1. Section 584-11, Hawaii Revised Statutes, is amended by

amending subsection (a) to read as follows:

“(a) The court may, and upon request of a party shall, require the child, mother, or alleged father to submit to genetic tests, including blood tests. The [tests] testing utilized must have a power of exclusion greater than ninety-nine point zero per cent (99.0%) and a minimum combined paternity index of five hundred to one, and shall be performed by an expert qualified as an examiner of genetic markers, appointed by the court.”

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

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

(Approved April 22, 1994.)

## ACT 28

H.B. NO. 2181

A Bill for an Act Relating to Motor Vehicles.

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

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

“(c) Length:

- (1) No single motor vehicle or other power vehicle having a total overall length greater than [forty] forty-five feet, including load, shall be operated or moved upon any public road, street, or highway within the State, except as hereinafter provided[.];
- (2) No truck-tractor and semitrailer having a total overall length greater than sixty feet, including load, shall be operated or moved upon any public road, street, or highway, other than interstate highways and certain qualifying federal aid highways as designated by the director of transportation, within the State, except as hereinafter provided; provided that for truck-tractors and semitrailers used for agricultural purposes, or articulated buses for public transit purposes, the total combined length of the truck-tractor and semitrailer or articulated bus shall not exceed sixty-five feet in length; provided further that the length of the semitrailer shall not exceed forty-five feet in length[.];
- (3) No combination of motor vehicles or other power vehicles coupled together shall consist of more than two units and no such combination of vehicles having a total overall length greater than sixty-five feet, including load, shall be operated or moved upon any public road, street, or highway other than interstate highways and certain qualifying federal aid highways as designated by the director of transportation, within the State, except as hereinafter provided. A truck-tractor and semitrailer shall be regarded as a single unit when determining the number of units in a combination[.];
- (4) No motor vehicle, self-propelled construction or farm equipment, trailer, or semitrailer shall be operated upon any public road, street,



or highway within the State if it is carrying or otherwise has projecting to the front or rear, a load, boom, mast, or other projecting structure or attachment unless:

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

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

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

(Approved April 28, 1994.)

## ACT 29

H.B. NO. 2234

A Bill for an Act Relating to Naturopathy.

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

SECTION 1. Section 455-3, Hawaii Revised Statutes, is amended to read as follows:

**“§455-3 Qualifications of applicants.** Each applicant shall be a graduate of a school, university, or college of naturopathy that<sup>1</sup> has received candidacy status with, or has been accredited by, a regional or a national professional accrediting body [either of which shall have been] recognized by the United States Department of Education[.]; provided that any applicant who graduated from a college of naturopathy prior to 1987 shall be deemed qualified if the college was approved by the board prior to 1987 and has been accredited by a regional or national professional accrediting body recognized by the United States Department of Education.”

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

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

(Approved April 28, 1994.)

### Note

1. Prior to amendment “which” appeared here.

## ACT 30

H.B. NO. 2287

A Bill for an Act Relating to Motor Vehicles.

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

SECTION 1. Section 291-21.3, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately designated and to read as follows:

**““Flatrack” means an open-sided platform mounted on a chassis without motive power designed to be drawn by a motor vehicle and used to carry property.”**

SECTION 2. Section 291-37, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**“(a) Any person guilty of omitting any of the required acts, or committing any of the prohibited acts of this chapter, or the rules adopted shall be guilty of a violation of this chapter and shall be fined not less than \$25 nor more than**

**ACT 30**

\$1,800; provided that any person guilty of omitting any of the required acts, or committing any of the prohibited acts of sections 291-34, 291-35, or 291-36 shall be fined not more than \$600 and not less than the fine which is set forth in the following tables:

If the excess weight is:	The minimum fine for a first violation shall be:
100 to 1,500 pounds	\$125
1,501 to 2,000 pounds	130
2,001 to 2,500 pounds	140
2,501 to 3,000 pounds	160
3,001 to 3,500 pounds	180
3,501 to 4,000 pounds	200
4,001 to 4,500 pounds	225
4,501 to 5,000 pounds	250
5,001 to 5,500 pounds	275
5,501 to 6,000 pounds	300
6,001 to 6,500 pounds	330
6,501 to 7,000 pounds	360
7,001 to 7,500 pounds	390
7,501 to 8,000 pounds	420
8,001 to 8,500 pounds	455
8,501 to 9,000 pounds	490
9,001 to 9,500 pounds	525
9,501 to 10,000 pounds	560
10,001 pounds and over	580

If the excess dimension is:	The minimum fine shall be:
Up to 5 feet	\$ 25
Over 5 feet and up to 10 feet	50
Over 10 feet and up to 15 feet	75
Over 15 feet	100

For the purpose of the imposition of a fine or penalty herein, evidence of prior offenses shall be admissible.

For a second violation within one year of the first, the fine for excess weight shall be not less than twice the fine listed in the excess weight table above and not more than \$1,200. For a third or subsequent violation for excess weight previously cited under this section within one year, the fine shall not be less than triple the fine listed in the excess weight table above and not more than \$1,800.

For the purposes of this section "person" means the driver of the vehicle unless the driver is an employee in the scope and course of employment, in which case "person" means the employer of the driver. In the case of the transportation of a sealed container or transportation by flatrack, "person" means:

- (1) The individual or company the [container] cargo is consigned to; or
- (2) The individual or company located in the State shipping the [container.] cargo.

The consignee or the shipper shall not be cited if the power units' drive axle group is overweight and the weight is not more than that allowed for a tandem axle with any applicable tolerances.

All penalties imposed and collected for violations of sections 291-33 to 291-36 shall be paid into the state highway fund.

The department of transportation is authorized to institute a system where the minimum fine, based on the tables in this subsection, may be mailed in when the citation or penalty is not to be contested. This system shall include an ability for the owner of the vehicle or combination of vehicles to request the operator be held harmless and the citation be transferred to that owner of the vehicle or combination of vehicles.”

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

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

(Approved April 28, 1994.)

## ACT 31

H.B. NO. 2327

A Bill for an Act Relating to License Plates.

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

SECTION 1. Section 249-5, Hawaii Revised Statutes, is amended to read as follows:

**“§249-5 Exemptions for stored vehicles; refunds.** All vehicles taxable under sections 249-1 to 249-13, which are stored so that they are not used for transportation, or for the other purposes covered by section 249-2, shall be exempt from the tax imposed under this chapter for the period of storage; provided that the owner of each vehicle shall first present to the director of finance a signed statement of the fact of the storage, together with such other relevant facts as may be required by the director of finance and shall surrender the last issued certificate of registration, license plates, and emblem for the vehicle. If the affidavit, certificate of registration, license plates, and emblem are presented to the director of finance after the expiration of the vehicle’s registration period, then the unpaid tax for each month the license plates could have been validated with an emblem plus the fee for the currently issued license plates and emblem shall be paid in full upon presenting the affidavit. Should the affidavit be presented to the director of finance after payment of the current year’s tax, then a portion of the tax, for each full month remaining in the current year shall be refunded upon completion of all storage requirements, but no refund shall be made for a period less than one month. The director of finance may dispose of the license plates for any vehicle whose registration has [been] expired [for more than one year,] and the owner shall be required to purchase new license plates and a new emblem upon removing the vehicle from storage.”

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved April 28, 1994.)

A Bill for an Act Relating to Tourism.

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

SECTION 1. The legislature finds that new marketing initiatives and strategies will need to be undertaken if Hawaii's visitor arrival numbers are expected to grow. In particular, both the department of business, economic development, and tourism and the Hawaii visitors bureau will need to coordinate their efforts in market segmentation and targeting to improve Hawaii's market share within the new international tourism environment. The legislature believes that as the agency with the responsibility for marketing Hawaii's visitor industry, the department of business, economic development, and tourism should be responsible for the development of strategies related to segmentation and targeting.

The purpose of this Act is to require the Hawaii tourism marketing council to develop a market segmentation and long-range targeting plan.

SECTION 2. Section 201-94, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) The council shall annually review, evaluate, and make recommendations to the department on the State's tourism marketing and promotion programs and activities. Copies of the council's findings and recommendations shall be furnished to the governor and legislature. The review and recommendations by the council shall include but not be limited to:

- (1) The biennial tourism marketing plan, including its market segmentation and long-range targeting aspects;
- (2) Implementation of the biennial tourism marketing plan; and
- (3) Inventory and analysis of visitor satisfaction and complaints.”

SECTION 3. New statutory material is underscored.

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

(Approved April 28, 1994.)

A Bill for an Act Relating to the Traffic Code.

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

SECTION 1. Act 214, Session Laws of Hawaii 1993, is amended by amending section 15 to read as follows:

“SECTION 15. Section 291C-161, Hawaii Revised Statutes, is amended [by amending subsection (c)] to read as follows:

“**§291C-161 Penalties.** (a) It is a violation for any person to violate any of the provisions of this chapter except as otherwise specified in subsection (c) of this section and unless the violation is by other law of this State declared to be a

felony, misdemeanor, or petty misdemeanor.

(b) Except as provided in subsection (c) of this section, every person who violates any provision of this chapter for which another penalty is not provided, shall [for a first conviction thereof be fined not] be fined:

- (1) Not more than \$100[;] for a first conviction thereof; [for conviction of a second offense committed within one year after the date of the first offense, the person shall be fined not]
- (2) Not more than \$200[;] for conviction of a second offense committed within one year after the date of the first offense; and [for conviction of a third or subsequent offense committed within one after the date of the first offense, the person shall be fined not]
- (3) Not more than \$500[,] for conviction of a third or subsequent offense committed within one year after the date of the first offense;

provided that upon a conviction for a violation of section 291C-12, 291C-12.5, or 291C-12.6, the person shall be sentenced in accordance with that section.

(c) Every person who violates section 291C-13 or 291C-18[, for a first conviction thereof, shall be] shall:

- (1) Be fined not more than \$100 or imprisoned not more than ten days[;] for a first conviction thereof; [for conviction of a second offense committed within one year after the date of the first offense, the person shall be]
- (2) Be fined not more than \$200 or imprisoned not more than twenty days or both[;] for conviction of a second offense committed within one year after the date of the first offense; and [for conviction of a third or subsequent offense committed within one year after the date of the first offense, the person shall be]
- (3) Be fined not more than \$500 or imprisoned not more than six months or both[.] for conviction of a third or subsequent offense committed within one year after the date of the first offense.

(d) The [courts] court may assess a sum not to exceed \$25 for the cost of issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to the person for any traffic violation.

(e) The court may require a person who violates any of the provisions of this chapter to attend a course of instruction in driver retraining as deemed appropriate by the court, in addition to any other penalties imposed."

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

SECTION 3. This Act shall take effect on July 1, 1994.

(Approved April 28, 1994.)

## ACT 34

H.B. NO. 2462

A Bill for an Act Relating to Insurance.

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

SECTION 1. Section 431:4A-101, Hawaii Revised Statutes, is amended to read as follows:

“§431:4A-101 Credit allowed a domestic ceding insurer. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on the domestic ceding insurer’s financial statements on account of reinsurance ceded only when the reinsurer meets the requirements of paragraph (1), (2), (3), (4), or (5). The requirements of paragraph (6) must also be met if the reinsurer attempts to meet the requirements of paragraph (3) or (4).

- (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this State.
- (2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this State. An accredited reinsurer is one that:
  - (A) Files with the commissioner evidence of its submission to this State’s jurisdiction;
  - (B) Submits to this State’s authority to examine its books and records;
  - (C) Is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;
  - (D) Files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and either:
    - (i) Maintains a surplus as regards policyholders in an amount that is not less than \$20,000,000 and whose accreditation has not been denied by the commissioner within ninety days of its submission; or
    - (ii) Maintains a surplus as regards policyholders in an amount less than \$20,000,000 and whose accreditation has been approved by the commissioner.

No credit shall be allowed a domestic ceding insurer, if the assuming insurer’s accreditation has been revoked by the commissioner after notice and hearing.

- (3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance equal to or exceeding those applicable under this article and the assuming insurer or United States branch of an alien assuming insurer:
  - (A) Maintains a surplus as regards policyholders in an amount not less than \$20,000,000; and
  - (B) Submits to the authority of this State to examine its books and records;

provided that the requirement of subparagraph (A) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.
- (4) Credit shall be allowed as follows:
  - (A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in section 431:4A-103(b), for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns, and

successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000. In the case of a group including incorporated and [of] individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which \$100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group; the incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and the group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants;

- (B) In the case of a group of incorporated insurers under common administration that complies with the filing requirements contained in subparagraph (A), and that has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, and that submits to this State's authority to examine its books and records and bears the expense of the examination, and that has aggregate policyholders' surplus of \$10,000,000,000, the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group; and the group shall maintain a joint trustee surplus, of which \$100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities, and each member of the group shall make available to the commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant;
- (C) The trust shall be established in a form approved by the commissioner. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust must remain in effect for as long as



the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust; and

- (D) No later than February 28 of each year, the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.
- (5) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (1), (2), (3), or (4), but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.
- (6) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this State, the credit permitted by paragraphs (3) and (4) shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:
  - (A) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give that court jurisdiction, and will abide by the final decision of that court or of any appellate court in the event of an appeal; and
  - (B) To designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement."

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

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

(Approved April 28, 1994.)

**ACT 35**

H.B. NO. 2825

A Bill for an Act Relating to Charitable Organizations.

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

SECTION 1. Act 206, section 8, Session Laws of Hawaii 1993, is amended to read as follows:

"SECTION 8. Section 467B-9, Hawaii Revised Statutes, is amended to read as follows:

**“§467B-9 Prohibited acts.** (a) No person, for the purpose of soliciting contributions from persons in the State, shall use the name of any other person except that of an officer, director, or trustee of the charitable organization by or for which contributions are solicited, without the written consent of the other persons.

A person shall be deemed to have used the name of another person for the purpose of soliciting contributions if the latter person's name is listed on any stationery, advertisement, brochure, or correspondence in or by which a contribution is solicited by or on behalf of a charitable organization or the latter person's name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored, or endorsed the charitable organization or its activities.

(b) No charitable organization, professional solicitor, or professional fund-raising counsel soliciting contributions shall use a name, symbol, or statement so closely related or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public.

(c) No person, in connection with any solicitation or sale, shall misrepresent or mislead anyone by any manner, means, practice, or device whatsoever, to believe that the solicitation or sale is being conducted on behalf of a charitable organization or that the proceeds of the solicitation or sale will be used for charitable purposes, if that is not the fact.

(d) No professional solicitor, and no agent, employee, independent contractor, or other person acting on behalf of the professional solicitor, shall solicit in the name of or on behalf of any charitable organization unless:

- (1) The professional solicitor has obtained the written authorization of two officers of the organization, which authorization shall bear the signature of the professional solicitor and the officers of the charitable organization and shall expressly state on its face the period for which it is valid, which shall not exceed one year from the date of issuance, and has filed a copy of the written authorization with the director prior to the solicitation; and
- (2) The professional solicitor and any person who, for compensation, acts as an agent, employee, independent contractor, or otherwise on behalf of the professional solicitor carries a copy of the authorization while conducting solicitations, and exhibits it on request to persons solicited or police officers or agents of the department.

(e) No charitable organization, professional fund-raising counsel, or professional solicitor subject to this chapter shall use or exploit the fact of filing any statement, report, professional fund-raising counsel contracts, or professional solicitor contracts or other documents or information required to be filed under this chapter or with the department so as to lead the public to believe that the filing in any manner constitutes an endorsement or approval by the State of the purposes or goals for the solicitation by the charitable organization, professional fund-raising counsel, or professional solicitor; provided that the use of the following statement shall not be deemed a prohibited exploitation: “Information regarding this organization has been filed with the State of Hawaii department of commerce and consumer affairs. Filing does not imply endorsement or approval of the organization or the public solicitation for contributions.”

(f) No person, while soliciting, shall impede or obstruct, with the intent to physically inconvenience the general public or any member thereof in any public place or in any place open to the public.

(g) No person shall submit for filing on behalf of any charitable organization, professional fund-raising counsel, or professional solicitor, any statement,

## ACT 36

financial statement, report, attachment, or other information to be filed with the department that contains information, statements or omissions that are false or misleading.

(h) No person shall solicit contributions from persons in the State or otherwise operate in the State as a charitable organization, an exempt charitable organization, professional fund-raising counsel, professional solicitor, or commercial co-venturer unless the person has filed the information required by this chapter with the department in a timely manner.

(i) No person shall aid, abet, or otherwise permit any persons to solicit contributions from persons in the State unless the person soliciting contributions has complied with the requirements of this chapter.

(j) No person shall fail to file the information and statements required by this chapter or fail to provide any information demanded by the director pursuant to this chapter in a timely manner.

(k) No person shall employ in any solicitation or collection of contributions for a charitable organization, any device, scheme, or artifice to defraud or obtain money or property by means of any false, deceptive, or misleading pretense, representation, or promise.

(l) No person, in the course of any solicitation, shall represent that funds collected will be used for a particular charitable purpose, or particular charitable purposes, if the funds solicited are not used for the represented purposes.

(m) No person shall receive compensation from a charitable organization for obtaining moneys or bequests for that charitable organization if that person has also received compensation for advising the donor to make the donation; provided that compensation may be received if the person obtains the written consent of the donor to receive compensation from the charitable organization.

(n) No person, after January 1, 1995, shall sell, license, offer to trade, or offer to lease, any list of donors that was obtained from the solicitation of persons to contribute to any charitable organization unless all listed donors have [consented to their names and addresses being used in this manner.] been informed of their right to be deleted from the list and the person has procedures in place to delete the names of donors who ask to be deleted."

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

SECTION 3. This Act shall take effect on July 1, 1994.

(Approved April 28, 1994.)

## ACT 36

H.B. NO. 3150

A Bill for an Act Relating to Military Justice Training for Members of the State Military Forces.

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

SECTION 1. Section 124A-163, Hawaii Revised Statutes, is amended to read as follows:

“§124A-163 [Sections to be explained. Sections 124A-2, 124A-3, 124A-11, 124A-21, 124A-44, 124A-46, 124A-62, 124A-81, 124A-111 to 124A-153,

and 124A-163 to 124A-165] **Military justice training.** The procedures and provisions of this chapter shall be carefully explained to every enlisted member at the time of the member's enlistment or transfer or induction into, or at the time of the member's order to duty in or with any of the state military forces or within ninety days thereafter. They shall also be explained [annually] at least once every three years to each unit of the state military forces. A complete text of this chapter and of the rules adopted by the governor thereunder shall be made available to any member of the state military forces[,] by the member's commander, upon the member's request, for the member's personal examination."

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

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

(Approved April 28, 1994.)

## ACT 37

H.B. NO. 3155

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

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

SECTION 1. Section 209, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read as follows:

“(a) Upon the death of the lessee, the lessee's interest in the tract or tracts and the improvements thereon, including growing crops and aquacultural stock (either on the tract or in any collective contract or program to which the lessee is a party by virtue of the lessee's interest in the tract or tracts), shall vest in the relatives of the decedent as provided in this paragraph. From the following relatives of the lessee who are (1) at least one-quarter Hawaiian, husband, wife, [or] children, or grandchildren, or (2) native Hawaiian, father and mother, widows or widowers of the children, [grandchildren,] brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews, — the lessee shall designate the person or persons to whom the lessee directs the lessee's interest in the tract or tracts to vest upon the lessee's death. The Hawaiian blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled to the leased lands or under section 3 of the Act of May 16, 1934 (48 Stat. 777, 779), as amended, or under section 3 of the Act of July 9, 1952 (66 Stat. 511, 513). In all cases that person or persons need not be eighteen years of age. The designation shall be in writing, may be specified at the time of execution of the lease with a right in the lessee in similar manner to change the beneficiary at any time and shall be filed with the department and approved by the department in order to be effective to vest the interests in the successor or successors so named.

In case of the death of any lessee, except as hereinabove provided, who has failed to specify a successor or successors as approved by the department, the department may select from only the following qualified relatives of the decedent:

- (1) Husband or wife; or
- (2) If there is no husband and wife, then the children; or
- (3) If there is no husband, wife, or child, then the grandchildren; or

(3) (4) If there is no husband, wife, [or] child, or grandchild, then from the following relatives of the lessee who are native Hawaiian: father and mother, widows or widowers of the children, [grandchildren,] brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews.

The rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of the lessee.

In the case of the death of a lessee leaving no designated successor or successors, husband, wife, children, grandchildren, or relative qualified to be a lessee of Hawaiian home lands, the land subject to the lease shall resume its status as unleased Hawaiian home lands and the department if authorized to lease the land to a native Hawaiian as provided in this Act.

Upon the death of a lessee who has not designated a successor and who leaves a spouse not qualified to succeed to the lease or children of qualified to succeed to the lease, or upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall appraise the value of all the improvements and growing crops or improvements and aquacultural stock, as the case may be, and shall pay to the nonqualified spouse or the nonqualified children as the lessee shall have designated prior to the lessee's death, or to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, the value thereof, less any indebtedness to the department, or for taxes, or for any other indebtedness to the department, or for taxes, or for any other indebtedness the payment of which has been assured by the department, owed by the deceased lessee or the previous lessee. These payments shall be made out of the Hawaiian home loan fund and shall be considered an advance therefrom and shall be repaid by the successor or successors to the tract involved. If available cash in the Hawaiian home loan fund is insufficient to make these payments, payments may be advanced from the Hawaiian home general loan fund and shall be repaid by the successor or successors to the tract involved; provided that any repayment for advances made from the Hawaiian home general loan fund shall be at the interest rate established by the department for loans made from the Hawaiian home general loan fund.

The appraisal shall be made by three appraisers, one of whom shall be named by the department, one by the previous lessee or the legal representative of the deceased lessee, as the case may be, and the third shall be selected by the two appraisers aforementioned."

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

SECTION 3. This Act shall take effect upon approval by the governor of the State of Hawaii with the consent of the United States Congress.

(Approved April 28, 1994.)

A Bill for an Act Relating to Ocean Recreation.

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

SECTION 1. Section 200-14, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§200-14]]~~ **Violation of rules; penalty.** (a) Any person who violates any rule adopted and published by the department under this part or who violates this part, shall be fined not more than [\$10,000] \$2,000 for each [offense,] violation, and any vessel, the agents, owner, or crew of which violate the rules of the department or this part, shall be fined not more than [\$10,000] \$2,000 for each violation; provided that in addition to or as a condition to the suspension of the fines and penalties, the court may deprive the offender of the privilege of operating or mooring any vessel in state waters for a period of not more than two years.

(b) Notwithstanding the provisions of subsection (a) establishing a fine of not more than \$2,000, any person who violates any rules adopted and published by the department relating to unauthorized discharge, dumping, or abandoning, in any state boating facility or state waters, of any petroleum product, hazardous material, or sewage in violation of the state water quality standards established by the department of health, shall be fined not more than \$10,000 for each day of violation, and any vessel, the agents, owner, or crew of which violate such rules of the department shall be fined not more than \$10,000 for each day of violation.”

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

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

(Approved April 28, 1994.)

**ACT 39**

H.B. NO. 3208

A Bill for an Act Relating to Pharmacy.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended:

1. By amending subsection (a) to read as follows:

1994: “(a) The following chapters are hereby repealed effective December 31,

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 457 (Board of Nursing)
- (3) Chapter 457A (Nurse Aides)
- (4) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- [(5) Chapter 461 (Board of Pharmacy)
- (6)] (5) Chapter 468L (Travel Agencies)”

2. By amending subsection (g) to read as follows:

2000: “(g) The following chapters are hereby repealed effective December 31,

- (1) Chapter 439 (Board of Cosmetology)
- (2) Chapter 448F (Electrologists)
- (3) Chapter 454 (Mortgage Brokers and Solicitors)

## ACT 39

- (4) Chapter 454D (Real Estate Collection Servicing Agents)
- (5) Chapter 466 (Board of Public Accountancy)
- (6) Chapter 467 (Real Estate Commission)
- (7) Chapter 461 (Pharmacists and Pharmacy)”

SECTION 2. Section 461-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any applicant for a license as a pharmacist shall submit an application on a form prescribed by the board and shall provide evidence to the board that the applicant:

- (1) Is at least eighteen years of age;
- (2) Holds a degree from a school or college of pharmacy or department in a university, which school or college or department is recognized and accredited by the American Council of Pharmaceutical Education;
- (3) Has a minimum of [two thousand] fifteen hundred hours practical experience in any state of the United States in a pharmacy under the supervision of a registered pharmacist. 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. In the event an applicant has no practical experience as required, the applicant may take the examination and upon passing the examination, shall not receive a license until after the fulfillment of the practical experience requirement; and
- (4) Has passed an examination as may be prescribed by the board.”

SECTION 3. Section 461-8.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any pharmacist who is registered or licensed under the laws of any state or territory of the United States with qualifications for licensure which equal or exceed those of this State, shall be eligible for licensure; provided that:

- (1) [the] The pharmacist possesses a current valid license;
- (2) The pharmacist has practiced as a registered pharmacist for [two thousand] fifteen hundred hours or more within the five years preceding the date of application;
- (3) [there is no] No disciplinary action [pending] or other unresolved complaints is pending against the pharmacist in any state or territory; and
- (4) [the] The laws of the other state or territory grant reciprocal treatment to licensees of this State. The board may examine such licensees only as to knowledge of this State’s statutes and rules.”

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

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

(Approved April 28, 1994.)

## ACT 40

H.B. NO. 3213

A Bill for an Act Relating to Travel Agencies.

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

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

1. By amending subsection (a) to read:  
1994: “(a) The following chapters are hereby repealed effective December 31,

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 457 (Board of Nursing)
- (3) Chapter 457A (Nurse Aides)
- (4) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (5) Chapter 461 (Board of Pharmacy)
- [(6) Chapter 468L (Travel Agencies)]”

2. By amending subsection (g) to read:  
2000: “(g) The following chapters are hereby repealed effective December 31,

- (1) Chapter 439 (Board of Cosmetology)
- (2) Chapter 448F (Electrologists)
- (3) Chapter 454 (Mortgage Brokers and Solicitors)
- (4) Chapter 454D (Real Estate Collection Servicing Agents)
- (5) Chapter 466 (Board of Public Accountancy)
- (6) Chapter 467 (Real Estate Commission)
- (7) Chapter 468L (Travel Agencies)”

SECTION 7.<sup>1</sup> Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8.<sup>1</sup> This Act shall take effect upon its approval.

(Approved April 28, 1994.)

**Note**

1. So in original.

## ACT 41

H.B. NO. 3304

A Bill for an Act Relating to the Travel Agency Education Fund.

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

SECTION 1. Act 285, Session Laws of Hawaii 1991, is amended by amending section 5 to read as follows:

“SECTION 5. The department shall use the amounts available in the education fund to alert all current licensees under chapter 468K, Hawaii Revised Statutes, to the requirements of this Act and to inform the public about the rights



## ACT 42

and remedies provided in this Act. The fund may also be used to pay for any claim or expense of the recovery fund in the event the recovery fund becomes exhausted. Any amounts that remain after payment of educational expenses or for recovery fund claims and expenses shall become part of the compliance resolution fund for use in travel agency-related cases.”

SECTION 2. New statutory material is underscored.

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

(Approved April 28, 1994.)

## ACT 42

H.B. NO. 3305

A Bill for an Act Relating to the Licensing of Osteopaths.

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

SECTION 1. Chapter 460, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§460- Limited and temporary licenses. The board may issue a limited and temporary license to an applicant who is otherwise qualified to be examined upon determination that the applicant has been appointed to an internship that meets the requirements of section 460-6(2); provided that no disciplinary actions or proceedings are pending against the applicant in any state or territory. The applicant’s practice shall be limited to duties as a resident or as directed by the program of training while at the hospital. The license shall be valid for one year and may be renewed from year to year during the period of residency.”

SECTION 2. Section 460-4, Hawaii Revised Statutes, is amended to read as follows:

“§460-4 Board; appointment, powers, and duties. The governor shall appoint a board of osteopathic examiners, consisting of five persons, three of whom shall be osteopathic physicians and surgeons licensed under the laws of this State and two of whom shall be public members. As used in this chapter, “board” means the board of osteopathic examiners.

[The board shall examine all applicants for licenses to practice as osteopathic physicians and surgeons. In lieu of the board’s written examination, the board will accept the examination of the National Board of Osteopathic Medical Examiners with scores deemed satisfactory by the board and who otherwise meets the requirements of the laws of this State. The board, in its discretion, may accept the federation licensing examination (FLEX) in lieu of its own examination.] Subject to chapter 91 and with the approval of the governor and the director of commerce and consumer affairs, the board may adopt, amend, and repeal all necessary rules relating to the enforcement of this chapter and not inconsistent therewith.”

SECTION 3. Section 460-6, Hawaii Revised Statutes, is amended to read as follows:

“§460-6 Application [for license.] and licensure. [Each applicant for a

license provided for in this chapter shall comply with the following requirements:

- (1) Apply on a form prescribed by the board of osteopathic examiners;
- (2) Submit evidence verified on oath and satisfactory to the board that the applicant is a graduate of a school or college of osteopathy which is approved by the American Osteopathic Association; and
- (3) Submit satisfactory evidence to the board that the applicant has served an internship of at least one year in a hospital approved by the American Osteopathic Association and the American College of Osteopathic Surgeons, or in a hospital approved by the American Medical Association, or the equivalent of the requirement as determined by the board if the applicant graduated prior to 1943.]

Before any applicant shall be eligible for licensure, the applicant shall be found to possess the necessary qualifications and submit evidence satisfactory to the board that:

- (1) The applicant is a graduate of a school or college of osteopathy which is approved by the American Osteopathic Association;
- (2) The applicant has served an internship of at least one year in a hospital approved by the American Osteopathic Association and the American College of Osteopathic Surgeons, or in a hospital approved by the American Medical Association, or the equivalent of the requirement as determined by the board if the applicant graduated prior to 1943; and
- (3) The applicant has passed the National Board of Osteopathic Medical Examiners examination (NBOME), or the Federation Licensing Examination (FLEX), or the United States Medical Licensing Examination (USMLE), or a combination of parts of the FLEX and USMLE as approved by the board, with scores deemed satisfactory by the board."

SECTION 4. Section 460-9, Hawaii Revised Statutes, is amended to read as follows:

**“§460-9 Foreign license.** (a) The board [of osteopathic examiners, in its discretion, may issue a license, without examination,] may issue a license to a practitioner who has been licensed in any country, state, territory, or province; provided the requirements for a license in the country, state, territory, or province in which the applicant is licensed, are deemed by the board [of osteopathic examiners to have been practically] to be equivalent to the requirements for a license in force in this State at the date of the license. The applicant shall also satisfy the requirements of section 460-6(3).

[(b) The board, in its discretion, may accept the examination of the National Board of Osteopathic Medical Examiners in lieu of its own examination and may issue a license to an applicant presenting a certificate from the National Board of Osteopathic Medical Examiners upon the basis of the examination of the national board; provided the applicant otherwise meets the requirements of the laws of this State.

(c)] (b) The board, in its discretion, may issue a license, without examination, to an osteopathic physician and surgeon who is a graduate of an approved osteopathic college in good standing and who has passed an examination for admission into the medical corps of the United States Army, Navy, or Public Health Service.

[(d) The board, in its discretion, may accept the federation licensing examination (FLEX).

**ACT 43**

(e) The application and license fees for the licenses shall be paid to the board at the time of application. In case the application is not approved by the board the license fee shall be returned to the applicant.]”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

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

(Approved April 28, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 43**

H.B. NO. 3308

A Bill for an Act Relating to the Use of Academic Designations in the Practice of Acupuncture.

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

SECTION 1. Section 436E-13, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) A licensee who has been awarded an earned doctoral degree from a university or college recognized by a regional or national accrediting body recognized by the United States Department of Education, or who has completed a program approved by the board in the study or practice of acupuncture (traditional oriental medicine), and who has met the standards for the use of academic designations as developed by the board may use the designation “Doctor”, the prefix “Dr.”, or the designation “D.Ac.”[,]; provided that the word “Acupuncturist” immediately follows the licensee’s name[.] if the designation “Doctor” or the prefix “Dr.” is used alone. The board shall establish the standards required for the use of these academic designations in its rules. The rules shall provide for a time period to enable a licensee to meet the requirements for the continued use of the academic designations and shall prohibit the use of the designations after that period unless those requirements are met.”

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

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

(Approved April 28, 1994.)

**ACT 44**

H.B. NO. 3312

A Bill for an Act Relating to the Motor Vehicle Rental Industry.

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

SECTION 1. Section 437D-15, Hawaii Revised Statutes, is amended to

read as follows:

“~~[[~~§437D-15~~]]~~ **Unfair trade practices.** Each lessor, and each officer, employee, agent, and other representative thereof, is prohibited from engaging in any practice constituting a violation of chapter 480. The following shall be per se violations of section 480-2:

- (1) The making of any material statement which has the tendency or capacity to mislead or deceive, either orally or in writing, in connection with the rental of, offer to rent, or advertisement to rent a vehicle;
- (2) The omission of any material statement which has the tendency or capacity to mislead or deceive, in connection with the rental of, offer to rent, or advertisement to rent a vehicle;
- (3) The making of any statement to the effect that the purchase of a collision damage waiver is mandatory;
- (4) Any violation of sections 437D-5 through 437D-14 [of this chapter;] and 437D-17.5;
- (5) The charging by the lessor to a lessee of more than the cost of the parts and labor necessary to repair a damaged vehicle in accordance with the standard practices in the automobile repair industry in the community; and
- (6) The making of any statement by the lessor to the effect that the lessee is or will be confined to remain within boundaries specified by the lessor unless payment or an agreement relating to the payment of damages has been made by the lessee.”

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

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

(Approved April 28, 1994.)

## ACT 45

H.B. NO. 3610

A Bill for an Act Relating to the Department of Accounting and General Services.

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

SECTION 1. Section 26-6, Hawaii Revised Statutes, is amended to read as follows:

“**§26-6 Department of accounting and general services.** (a) The department of accounting and general services shall be headed by a single executive to be known as the comptroller.

(b) The department shall preaudit and conduct after-the-fact audits of the financial accounts of all state departments to determine the legality of expenditures and the accuracy of accounts; report to the governor and to each regular session of the legislature as to the finances of each department of the State; manage the inventory, equipment, surplus property, insurance, and centralized purchasing programs of the State; establish and manage motor pools; manage the preservation and disposal of all records of the State; undertake the program of centralized engineering services, including operation and maintenance of public buildings,

for departments of the State; undertake the functions of the territorial or state surveyor; and establish, analyze, and enforce accounting and internal control systems.

(c) The department may adopt rules as may be necessary or desirable for the operation and maintenance of public buildings, including activities conducted in or around the public buildings. The rules shall be adopted pursuant to chapter 91.

(d) The King Kamehameha celebration commission is placed within the department of accounting and general services for administrative purposes. The functions, duties, and powers, subject to the administrative control of the comptroller, and the composition of the commission shall be as heretofore provided by law.

(e) The functions and authority heretofore exercised by the comptroller, board of commissioners of public archives, the archivist, the disposal committee, and the insurance management, surplus property management, and central purchasing functions of the bureau of the budget and the nonhighway functions of the department of public works as heretofore constituted are transferred to the department of accounting and general services established by this chapter.”

SECTION 2. New statutory material is underscored.

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

(Approved April 28, 1994.)

ACT 46

H.B. NO. 3729

A Bill for an Act Relating to Driver’s License.

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

SECTION 1. Section 286-131, Hawaii Revised Statutes, is amended to read as follows:

“§286-131 **Unlawful use of license.** It shall be a misdemeanor for any person:

- (1) To display or permit to be displayed or have in the person’s possession any canceled, revoked, suspended, fictitious, or fraudulently altered driver’s license;
- (2) To lend the person’s driver’s license to any other person or knowingly permit the use thereof by another;
- (3) To display or represent as one’s own any driver’s license not issued to the person;
- (4) To fail or refuse to surrender to the examiner of drivers upon the examiner’s lawful demand any driver’s license which has been suspended, revoked, or canceled;
- (5) To use a false or fictitious name in any application for a driver’s license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application[.];
- (6) To manufacture, sell, distribute, use, or have in the person’s possession any reproduction, imitation, or facsimile of any driver’s license or any identification with the appearance of a driver’s license.”

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

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

(Approved April 28, 1994.)

## ACT 47

S.B. NO. 3064

A Bill for an Act Making Emergency Appropriations for the Fiscal Year Ending June 30, 1994 for Hamakua Medical Center.

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

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

SECTION 2. The closure of Hamakua Sugar Company has had a negative impact on the provision of medical services to the people in the Hamakua area since patients no longer receive health insurance through Hamakua Sugar Company as they previously did. When seeking health care for themselves and their families, these Hamakua residents now have limitations because of being uninsured and paying full out-of-pocket expenses for medical services, or because of being insured by third party payors. These additional expenses, added to the already poor economic conditions in the Hamakua area, have significantly reduced access to, and availability of, medical services to Hamakua residents.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$140,000, or so much thereof as may be necessary for fiscal year 1993-1994, for the purpose of providing medical services to the people of Hamakua.

SECTION 4. The sum appropriated shall be expended by the department of health for the purposes of this Act.

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

(Approved April 29, 1994.)

## ACT 48

S.B. NO. 2151

A Bill for an Act Relating to Plant and Non-Domestic Animal Quarantine.

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

SECTION 1. Section 150A-6, Hawaii Revised Statutes, is amended to read as follows:

**“§150A-6 Soil, plants, animals, etc., importation or possession prohibited.** (a) No person shall transport, receive for transport, or cause to be transported

to the State, for the purpose of debarkation or entry thereinto, any of the following:

- (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 article with soil adhering thereto[.];
- (3) Any live snake, flying fox, fruit bat, Gila monster, injurious insect, or eels of the order Anguilliformes, or any other animal in any stage of development that is detrimental or potentially harmful to agriculture, horticulture, 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 purpose of exhibition in a government zoo, but only after [the]:
  - (A) 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]; and
  - (B) 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] the 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[.] described in this paragraph; and

- (4) Any live or dead honey bees, or used bee equipment that is not certified by the department to be free of pests; provided that nothing [herein shall] in this paragraph shall be construed to prohibit the importation of bee semen.
- [(5)] (b) The board shall maintain [a]:
  - (1) A list of conditionally approved animals and microorganisms [which] that require a permit for import into the State[, a];
  - (2) A list of restricted animals and microorganisms [which] that require a permit for both import into the State and possession[, and a]; and
  - (3) A list of animals and microorganisms [which] that are prohibited entry into the State.

[The] Animals and microorganisms on the lists of conditionally approved and restricted animals and microorganisms shall be imported only by permit issued pursuant to rules, and any violation of the conditions listed on the permit [is] shall be a violation of this section. Any [other] animal or microorganism that is not on the lists of conditionally approved, restricted, or prohibited [lists is] animals and microorganisms shall be prohibited until the board's review and determination for placement on one of these lists[.]; provided that the department may issue a special permit on a case by case basis for the importation and possession of a microorganism that is not on the lists of prohibited, restricted, or conditionally approved microorganisms, for the purpose of conducting medical research, or remediating medical emergencies or agricultural or ecological disasters, if the importer of the microorganism can meet permit requirements consistent with Centers for Disease Control and National Institute of Health guidelines as determined by the board.

[(6) (c) The board shall [also] maintain a list of restricted plants and a list of prohibited plants. Restricted plants [may] shall not be imported into the State without a permit issued pursuant to rules, and any violation of the conditions listed on the permit [is] shall be a violation of this section.

[(b) (d) No person shall possess, propagate, sell, transfer, or harbor any plant, animal, or microorganism included on the list or lists of prohibited plants, animals, and microorganisms maintained by the board under this section, except as allowed by the board upon a determination that the species:

- (1) Was initially permitted entry and later prohibited entry into the State; or
- (2) Was continually prohibited but [was] unlawfully introduced and is currently established in the State; and
- (3) Is not significantly harmful to agriculture, horticulture, animal or public health, and the environment. Under the [foregoing] circumstances[,], described in this subsection, the board may permit possession of the individual plant, animal, or microorganism through its registration with the department while still prohibiting the same species of plant, animal, or microorganism from importation, propagation, transfer, and sale.”

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 statutory material is underscored.

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

(Approved April 29, 1994.)

## ACT 49

S.B. NO. 2404

A Bill for an Act Relating to Income Taxation.

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

SECTION 1. Section 235-5.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For purposes of this section, the term “individual housing account” means a trust created or organized in Hawaii for the exclusive benefit of an individual, or, in the case of a married individual, for the exclusive benefit of the individual and spouse jointly, but only if the written governing instrument creating the trust meets the following requirements:

- (1) Contributions shall not be accepted for the taxable year in excess of \$5,000 (or \$10,000 in the case of a joint return) or in excess of \$25,000 for all taxable years, exclusive of interest paid or accrued;
- (2) The trustee is a bank, a savings and loan association, [or] a credit union, or a depository financial services loan company, chartered, licensed, or supervised under federal or state law, whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration, or any agency of this State or



- any federal agency established for the purpose of insuring accounts in these financial institutions. The financial institution must actively make residential real estate mortgage loans in Hawaii;
- (3) The assets of the trust shall be invested only in fully insured savings or time deposits. Funds held in the trust may be commingled for purposes of investment, but individual records shall be maintained by the trustee for each individual housing account holder which show all transactions in detail;
  - (4) The entire interest of an individual or married couple for whose benefit the trust is maintained shall be distributed to the individual or couple not later than one hundred twenty months after the date on which the first contribution is made to the trust;
  - (5) Except as provided in subsection (g), the trustee shall not distribute the funds in the account unless it (A) verifies that the money is to be used for the purchase of a first principal residence located in Hawaii, and provides that the instrument of payment is payable to the mortgagor, construction contractor, or other vendor of the property purchased; or (B) withholds an amount equal to ten per cent of the amount withdrawn from the account and remits this amount to the director within ten days after the date of the withdrawal. The amount so withheld shall be applied to the liability of the taxpayer under subsections (c) and (e); and
  - (6) If any amounts are distributed before the expiration of three hundred sixty-five days from the date on which a contribution is made to the account, the trustee shall so notify in writing the taxpayer and the director. If the trustee makes the verification required in paragraph (5)(A), then the department shall disallow the deduction under subsection (a) and subsections (c), (e), and (f) shall not apply to that amount. If the trustee withholds an amount under paragraph (5)(B), then the department shall disallow the deduction under subsection (a) and subsection (e) shall apply, but subsection (c) shall not apply.”

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

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

(Approved April 29, 1994.)

ACT 50

H.B. NO. 2

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

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

SECTION 1. Section 304-14.6, Hawaii Revised Statutes, is amended to read as follows:

“§304-14.6 National guard, their spouses and dependents, and military reservists; tuition waiver. (a) The board of regents shall waive all tuition fees for any qualified enlisted person, warrant or company grade officer (0-1 through 0-3) in the Hawaii national guard or in the reserve components of the

[army, navy, air force, marine corps, and coast guard] Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States of America, who is a resident of the State as defined by the board of regents under section 304-4 and who is an undergraduate student or graduate student working towards a degree on any campus of the University of Hawaii; provided that:

- (1) The exemption for tuition shall apply only for the academic year excluding summer session and courses offered by the college of continuing education and public service [which] that are not directly supported by an appropriation from the state general fund; and
- (2) The person maintains a satisfactory performance with that person's national guard or reserve unit and pursues a course of study at the University of Hawaii campus [which] that satisfies that school's academic requirements.

(b) The Hawaii national guard and the reserve components of the [army, navy, air force, marine corps, and coast guard] Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States of America shall establish certification procedures showing maintenance of a satisfactory military performance by a person applying for a tuition waiver [herein.] under this section. To qualify for a tuition waiver, an applicant shall obtain certification by the appropriate national guard or reserve force and present [such] the certification to the University of Hawaii at the time of enrollment.

(c) Subject to this section, the board of regents shall waive tuition fees for spouses and dependents of Hawaii national guard members who have been killed or permanently totally disabled while on active duty; provided that:

- (1) The tuition waiver shall be for an undergraduate or graduate degree only;
- (2) The tuition waiver shall not apply for summer courses or continuing education courses;
- (3) Tuition waivers shall not be available for more than five regular academic years; and
- (4) The spouse or dependent shall be a resident of the State of Hawaii, as defined by the board of regents under section 304-4.

(d) For the purposes of subsection (c):

"Active duty" means the inclusion of both federal duty status and state duty status.

"Dependents" mean relatives who were wholly or partially dependent upon the Hawaii national guard member's income at the time of the member's death or would have been so dependent but for the incapacity due to the member's permanent total disability, and includes the child of the member born after the member's death.

"Permanent total disability" means a disability of such an extent that the disabled person has no reasonable prospect of finding regular employment of any kind in the normal labor market within the foreseeable future. In the case of the following injuries, the disability caused thereby shall be deemed to be permanent and total:

- (1) The permanent and total loss of sight in both eyes;
- (2) The loss of both feet at or before the ankle;
- (3) The loss of both hands at or above the wrist;
- (4) The loss of one hand and one foot;
- (5) An injury to the spine resulting in permanent and complete paralysis of both legs or both arms or one leg and one arm; and
- (6) An injury to the skull resulting in incurable imbecility or insanity.

## ACT 51

“Regular academic year” means the September to May academic year of the day program.

[(c)] (e) Tuition waivers granted under this section shall be in addition to any tuition waivers authorized under this chapter.

[(d)] (f) In the event of enactment of federal legislation providing for similar tuition benefits, any person who is not a member of the state military forces and who is receiving veterans or federal education benefits, shall not be eligible for tuition waiver under this section. As used in this subsection, “state military forces” has the same meaning as provided in section 124A-1.

[(e)] (g) The board of regents may adopt[, amend, and repeal] rules necessary or desirable to the implementation of this section, subject to chapter 91.”

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

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

(Approved May 3, 1994.)

## ACT 51

S.B. NO. 2434

A Bill for an Act Relating to Public Safety.

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

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

SECTION 2. Act 289, Session Laws of Hawaii 1993, appropriated a certain designated sum to the department of public safety to provide funds for the operations of its programs for the fiscal period beginning July 1, 1993, and ending June 30, 1994.

A critical funding emergency exists. The various programs will expend all appropriated funds before the end of the current fiscal year and the department will be unable to meet its fiscal obligation to provide for the health and safety of the public, staff, and clients. The increase in overtime payments is the primary contributing factor to this financial situation. The expenditures for fiscal year 1993-1994 increased in excess of 5.4 per cent over the fiscal year 1992-1993 expenditures.

The purpose of this Act is to appropriate moneys to prevent the shutdown of activities at our correctional facilities and the possible filing of lawsuits.

SECTION 3. The director of public safety shall submit a report to the legislature at least twenty days prior to the convening of the regular session of 1995, that shall include but not be limited to:

- (1) Recommendations on ways of mitigating the need for overtime expenditures caused by sick leave abuse, the process of filling vacant positions, and the existing shift relief factor;
- (2) An assessment of the effectiveness of departmental efforts to reduce overtime expenditures; and
- (3) Any proposed legislation the director deems necessary to reduce the use of overtime expenditures in the department of public safety.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,076,273, or so much thereof as may be necessary for fiscal year 1993-1994, for the various programs of the department of public safety.

SECTION 5. The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

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

(Approved May 6, 1994.)

**ACT 52**

S.B. NO. 3010

A Bill for an Act Making Supplementary Appropriations for the Fiscal Year Ending June 30, 1994 for Hilo and Maui Memorial Hospitals.

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

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

SECTION 2. Act 289, Session Laws of Hawaii 1993, appropriated special amounts of non-general funds to various department of health programs to provide funds for public health facilities and medical services under the division of community hospitals for the fiscal period beginning July 1, 1993, and ending June 30, 1995.

The purpose of this Act is to increase the division of community hospitals' special fund appropriation. The division of community hospitals requested proposals to provide laboratory, radiology, emergency, and anesthesiology services for the community hospitals with services to commence July 1, 1993. The proposals state that the hospitals shall bill all inpatients and registered outpatients of all payers for services provided. Because of this change in billing from prior contracts, where the hospitals billed medicare and medicaid patients and the contractors billed all other patients separately, contract costs will increase. However, net revenues are anticipated to increase as well. Funds generated from increased revenues will be used to offset the costs.

To facilitate the implementation of these services for the fiscal year ending June 30, 1994, the non-general fund appropriations provided in this Act reflect increased program funding due to the receipt of revenues from these services.

SECTION 3. There is appropriated out of the respective hospital special funds the following sums, or so much thereof as may be necessary, for fiscal year 1993-1994, for the following programs. The specified sums shall be in addition to the operating appropriations made for the same programs by Act 289, Session Laws of Hawaii 1993.

211	Hilo Hospital	\$1,428,972	B
221	Maui Memorial Hospital	<u>1,669,895</u>	B
		\$3,098,867	B

**ACT 53**

The letter symbols following the amounts shall have the same meanings as the letter symbols listed in section 2(c) of Act 289, Session Laws of Hawaii 1993.

SECTION 4. The sums appropriated shall be expended by the department of health for the purposes of this Act.

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

(Approved May 6, 1994.)

**ACT 53**

H.B. NO. 1649

A Bill for an Act Relating to Services for Persons with Developmental Disabilities or Mental Retardation.

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

SECTION 1. Chapter 333F, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§333F- Criminal history record checks.** (a) The department shall adopt rules pursuant to chapter 91 to assure the reputable and responsible character of an applicant to operate an adult foster home or developmental disabilities domiciliary home, of existing providers and their employees, of current and prospective employees of the applicant, and of new employees of the provider after certification or licensure, which shall provide for, but not be limited to, criminal history record checks.

(b) For the purposes of this section, “developmental disabilities domiciliary homes” means any facility licensed under section 321-15.9 that provides twenty-four hour supervision or care, excluding licensed nursing care, for a fee, to not more than five adults with mental retardation or developmental disabilities as defined in this chapter; and “adult foster homes” shall be as defined under section 321-11.2.

(c) An applicant to operate an adult foster home or developmental disabilities domiciliary home shall submit to the department, with the applicant’s application for certification or licensure, statements signed under penalty of perjury by the applicant and all current and prospective employees of the applicant indicating whether the applicant or any of the current or prospective employees of the applicant have ever been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less and providing consent to the department to conduct a criminal history record check and to obtain other criminal history record information for verification. The applicant and current or prospective employees of the applicant shall also be fingerprinted for the purpose of a national criminal history record check.

(d) Each existing provider or provider shall submit to the department statements signed under penalty of perjury by all employees hired after the initial licensure or certification of the existing provider or provider indicating whether any of the employees has ever been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less and providing consent to the department to conduct a criminal history record check and obtain other criminal history

record information for verification. The employees shall also be fingerprinted for the purpose of the national criminal history record check.

(e) The department is authorized to obtain criminal history record information through the Hawaii criminal justice data center on existing providers and their employees upon their next licensure or certification renewal date, and on any applicant and all current and prospective employees of the applicant including all new employees after the applicant is issued a certification or license under this chapter. The Hawaii criminal justice data center may assess the existing providers and their employees, applicants, current or prospective employees, or new employees of the applicant a reasonable fee for each criminal history record check performed.

(f) Once fingerprints are on file, yearly licensure or certification renewals for providers and employees will require only state criminal history record checks through the Hawaii criminal justice data center.

(g) The department may revoke a current license or certification or deny an application for a license or certification to operate an adult foster home or developmental disabilities domiciliary home under rules adopted pursuant to chapter 91 if the existing provider or employee of an existing provider, applicant, current or prospective employee of the applicant, provider, or new employee of the provider refuses to submit to the department statements indicating criminal convictions, refuses to provide consent to the department to conduct a criminal history record check or obtain other criminal history record information for verification, refuses to be fingerprinted, has been convicted of a crime other than a minor traffic violation involving a fine of \$50 or less; or if the department finds that the criminal history record of the existing provider or employee of an existing provider, applicant, current or prospective employee of the applicant, provider, or new employee of the provider may pose a risk to the health, safety, or well-being of persons with developmental disabilities or mental retardation living in the home.”

SECTION 2. Section 333F-1, Hawaii Revised Statutes, is amended by adding seven new definitions to be appropriately inserted and to read as follows:

“Applicant” means every person applying for a license to become a provider of an adult foster home or developmental disabilities domiciliary home.

“Criminal history record check” means an examination of an individual’s criminal history records by means including, but not limited to, fingerprint analysis and name inquiry into state and national criminal history record files.

“Criminal history record information” means criminal history information received from state and national criminal history record checks.

“Current employee” means every person currently employed by an applicant, who will become an adult foster or developmental disabilities domiciliary home caregiver once the applicant is approved to be a provider by the department.

“Existing provider” means every person licensed or certified as an adult foster or developmental disabilities domiciliary home provider before the effective date of section 333F-\_\_\_\_\_.

“Prospective employee” means every person seeking employment as a caregiver for an applicant.

“Provider” means the person who is issued the license or certificate of registration, as the case may be, by the department to provide care in an adult foster or developmental disabilities domiciliary home.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

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

(Approved May 6, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 54

H.B. NO. 2177

A Bill for an Act Relating to Fishing.

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

SECTION 1. Section 188-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) It is unlawful for any person to use nets made of or using netting, or bullpen traps with a stretched mesh of less than two inches, except that:

- (1) Persons engaged in sport fishing may use throw nets with stretched mesh of not less than one and one-half inches until December 31, 1994; thereafter, persons engaged in sport fishing may not use throw nets with stretched mesh of less than two inches;
- (2) Pond owners or operators who hold a license issued under section 188-44 may use nets of smaller mesh to take young mullet or pua for stocking their fish ponds;
- (3) Commercial marine licensees who hold a license issued under section 188-45 may use nets of smaller mesh to take nehu, iao, marquesan sardine, or any other species for which an open season may be declared by the department of land and natural resources for use as bait;
- (4) All persons may use nets of smaller mesh to take shrimp or opae, opelu, makiawa, or mikiawa;
- (5) Aquarium fish collectors with a valid aquarium fish permit issued by the department pursuant to section 188-31 may use nets of smaller mesh, but not thrownets, to fish for aquarium fish in conformance with the conditions of the permit, provided that noncommercial aquarium fish collectors shall be limited to a combined total of five fish or aquatic life specimens per person per day;
- (6) All persons may use a net with mesh of not less than one and one-half inches to take akule; provided that no akule measuring less than eight and one-half inches in total length from the tip of the snout to the tip of the tail shall be taken with a net during the months of July, August, September, and October; [and]
- (7) All persons engaged in surround net fishing with scuba, may use nets with mesh of not less than one and one-half inches only to bag and transport the fish captured with legal gear to the shore or the boat[.];
- (8) All persons engaged in stationary monofilament gill net fishing may use monofilament gill netting with a stretched mesh of not less than two inches until December 31, 1996; thereafter it shall be unlawful

for any person to use stationary monofilament gill nets made of or using monofilament gill netting with a stretched mesh of less than two and three-fourths inches; and

- (9) All persons may use hand nets or scoop nets of smaller mesh to take fish or other marine life for noncommercial purposes only; provided that the net, including any handle and other attachment thereto, shall not exceed three feet in any dimension."

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

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

(Approved May 6, 1994.)

## ACT 55

H.B. NO. 2274

A Bill for an Act Relating to Tourism.

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

SECTION 1. Section 201-95, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"[~~§~~201-95] Contract with the Hawaii Visitors Bureau and other organizations[.]; report.** (a) Any law to the contrary notwithstanding, the office may contract with the Hawaii Visitors Bureau or any other visitor industry organization to perform tourism promotion, marketing, and development[.]; provided that, whenever possible, the term of these contracts shall be for at least two years and, to the extent practicable, the office shall negotiate and execute all contracts under this subsection as early as possible following the beginning of each fiscal biennium."

SECTION 2. Section 203-2, Hawaii Revised Statutes, is amended to read as follows:

**"§203-2 Terms and conditions of contract.** The contract entered into with the Hawaii Visitors Bureau shall contain the following terms and conditions:

- (1) [That the] The Hawaii Visitors Bureau shall receive any complaints relating to tourist activities from any person who files complaints with the Hawaii Visitors Bureau, [shall make a] report monthly [report] to the department of business, economic development, and tourism, and [shall] make these complaints available for the inspection of all interested parties[.];
- (2) [That no] No employee or officer of the department of business, economic development, and tourism shall serve as a member of the Hawaii Visitors Bureau executive board[.]; and
- (3) The Hawaii Visitors Bureau shall submit an annual report to the legislature and the department of business, economic development, and tourism of its activities which compares anticipated results with funds expended and includes, but shall not be limited to:
  - (A) Goals and objectives in accordance with identified needs;



- (B) Description and status of promotional projects and programs including those which may exceed the duration of the contract;
- (C) Target markets;
- (D) Analyses of programs and project effectiveness including their anticipated and actual results; and
- (E) Program and project funding and costs.”

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

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

(Approved May 6, 1994.)

ACT 56

H.B. NO. 3180

A Bill for an Act Relating to the Department of Personnel Services.

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

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

“§26-4 **Structure of government.** Under the supervision of the governor, all executive and administrative offices, departments, and instrumentalities of the state government and their respective functions, powers, and duties shall be allocated among and within the following principal departments that are hereby established:

- (1) Department of [personnel services] human resources development (Section 26-5)
- (2) Department of accounting and general services (Section 26-6)
- (3) Department of the attorney general (Section 26-7)
- (4) Department of budget and finance (Section 26-8)
- (5) Department of commerce and consumer affairs (Section 26-9)
- (6) Department of taxation (Section 26-10)
- (7) University of Hawaii (Section 26-11)
- (8) Department of education (Section 26-12)
- (9) Department of health (Section 26-13)
- (10) Department of human services (Section 26-14)
- (11) Department of land and natural resources (Section 26-15)
- (12) Department of agriculture (Section 26-16)
- (13) Department of Hawaiian home lands (Section 26-17)
- (14) Department of business, economic development, and tourism (Section 26-18)
- (15) Department of transportation (Section 26-19)
- (16) Department of labor and industrial relations (Section 26-20)
- (17) Department of defense (Section 26-21)
- (18) Department of public safety (Section 26-14.6)”

SECTION 2. Section 26-5, Hawaii Revised Statutes, is amended to read as follows:

**“§26-5 Department of [personnel services.] human resources development.** The department of [personnel services] human resources development shall be headed by a single executive to be known as the director of [personnel services.] human resources development.

The director shall have the authority to [prescribe] adopt rules [and regulations] as heretofore exercised by the civil service commission. Whenever consistent with economic and efficient administration, the director may delegate any of the duties imposed upon the director by chapter 76 or chapter 77 to the department heads, or any of them, in accordance with standards and procedures issued by the director. The director shall institute and maintain a system of inspection to determine that the personnel laws are applied and administered by the departments in a manner consistent with the purposes and provisions of the civil service law. Whenever an inspection indicates failure on the part of a department to comply with established policies, [regulations,] rules, and standards, the director shall take [such] any action [as] that may be appropriate, including suspension or revocation of any delegation of the director’s authority.

The department shall administer the state [personnel] human resources program, including [personnel] human resources development and training, and [such] central [personnel] human resources services such as recruitment, examination, position classification, and pay administration for all departments.

There shall be within the department of [personnel services] human resources development a commission to be known as the civil service commission which shall sit as an appellate body on matters within the jurisdiction of the department of [personnel services.] human resources development. The commission shall consist of seven members, one from each county and three at large. At least one member of the commission shall be selected from among persons employed in private industry in skilled or unskilled laboring positions as distinguished from executive or professional positions. The functions, duties, and powers of the commission with respect to appeals shall be as heretofore provided by law for the civil service commission and for the loyalty board existing immediately prior to November 25, 1959.

The functions and authority heretofore exercised by the department of civil service and loyalty board as heretofore constituted are transferred to the department of [personnel services] human resources development established by this chapter.

Nothing in this section shall be construed as in any manner affecting the civil service laws applicable to the several counties which shall remain the same as if this chapter had not been enacted.”

SECTION 3. Section 26-52, Hawaii Revised Statutes, is amended to read as follows:

**“§26-52 Department heads and executive officers.** The salaries of the following state officers shall be as follows:

- (1) The salary of the superintendent of education shall be \$90,041 a year;
- (2) The salary of the president of the University of Hawaii shall be set by the board of regents; provided that effective July 1, 1998, the salary of the president of the University of Hawaii shall be set by the legislature;
- (3) The salaries of all department heads or executive officers of the departments of accounting and general services, agriculture, attorney

general, budget and finance, business, economic development, and tourism, commerce and consumer affairs, Hawaiian home lands, health, human resources development, human services, labor and industrial relations, land and natural resources, [personnel services,] public safety, taxation, and transportation shall be \$85,302 a year; and

- (4) The salary of the adjutant general shall be \$85,302 a year[. If the]; provided that if this salary is in conflict with the pay and allowance fixed by the tables of the regular army or air force of the United States, the latter shall prevail.”

SECTION 4. Section 76-1, Hawaii Revised Statutes, is amended to read as follows:

**“§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] that 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 applied 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 disability, 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] human resources development may be efficiently performed by a person with such a disability; provided that the employment will not be hazardous to the appointee or endanger the health or safety of the appointee’s co-workers 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[.]; and
- (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.”

SECTION 5. Section 76-4, Hawaii Revised Statutes, is amended to read as follows:

**“§76-4 Agreements of state and county departments and judiciary.**

The state department of [personnel services,] human resources development, the judiciary, and the several departments of civil service of the counties may enter into agreements for the joint administration of [such] matters [as] that may be practicable and consistent with this chapter and chapter 77, including the conducting of examinations and other procedures for the establishment and use of eligible lists, reciprocity in the use of eligible lists, and the conducting of salary studies. All eligible lists established or used under the agreements shall be as fully effective as those established or used separately.”

SECTION 6. Section 76-5, Hawaii Revised Statutes, is amended to read as follows:

**“§76-5 Service to judiciary and counties by State.** Subject to the rules of the state department of [personnel services,] human resources development, the director of [state personnel services] human resources development may enter into agreements with the judiciary and any county to furnish services and facilities of the state department to the judiciary and any county in the administration of civil service including position classification in the judiciary and any county. The agreements may provide for the reimbursement to the State of the reasonable value of the services and facilities furnished, as determined by the director. The judiciary and all counties are authorized to enter into the agreements.”

SECTION 7. Section 76-12, Hawaii Revised Statutes, is amended to read as follows:

**“§76-12 General powers and duties of director.** The director of [personnel services] human resources development shall:

- (1) Represent the public interest in the improvement of [personnel] human resources administration in the civil service;
- (2) Assist in fostering the interest of institutions of learning and civic, professional,<sup>1</sup> and employee organizations in the improvement of [personnel] human resources standards in civil service;
- (3) Advise the governor on policies and problems concerning [personnel] human resources administration; and
- (4) Make investigations concerning the administration of [personnel] human resources policies in the civil service, including any matter respecting the enforcement or effect of this chapter or the rules [and regulations prescribed] adopted thereunder, or the action or failure to act of any officer or employee with respect thereto.”

SECTION 8. Section 76-13, Hawaii Revised Statutes, is amended to read as follows:

**“§76-13 Specific duties and powers of director.** The director of [personnel services] human resources development shall direct and supervise all the administrative and technical activities of the director’s department. In addition to other duties imposed upon the director by this chapter and chapter 77, the director shall:

- (1) Attend all meetings of the commission;
- (2) Establish and maintain a roster of all persons in the civil service in which shall be set forth, as to each, the class of position held, the

- salary or pay, any change in class, title, pay, or status, and any other necessary data;
- (3) Appoint [such] assistants and employees [as may be] necessary to assist the director in the proper performance of the director's duties and for which appropriations shall have been made;
  - (4) Foster and develop, in cooperation with appointing authorities and others, programs for the improvement of employee efficiency;
  - (5) Cooperate fully with appointing authorities in the administration of this chapter and chapter 77 in order to promote public service and establish conditions of service [which] that will attract and retain employees of character and capacity, and to increase efficiency and economy in governmental departments by the improvement of methods of [personnel] human resources administration with full recognition of the requirements and needs of management;
  - (6) Encourage and exercise leadership in the development of effective [personnel] human resources administration within the several departments in civil service and make available the facilities of the director's department to this end;
  - (7) Investigate from time to time the operation and effect of this chapter and chapter 77 and of the rules adopted thereunder;
  - (8) Develop and maintain a position classification plan; and
    - (A) Create and adjust classes of positions and adopt class specifications including title, description of typical duties and responsibilities, statement of training and experience, and other requirements to be met by applicants, covering all positions;
    - (B) Allocate each position and each newly created position to the appropriate class;
    - (C) Reallocate positions to recognize material changes in duties and responsibilities or to correct a previous action[. Reallocations]; provided that reallocations shall be made effective retroactively to the beginning of the pay period immediately following the date the application for reallocation was filed with the director or [such] any other date [as] provided by the rules [and regulations]; and provided further that an employee who is otherwise properly compensated shall not be required to make reimbursement of overpayment in salary when [such] the overpayment is due to salary increments or repricing actions nullified by the retroactive feature of a classification action; and provided further that the proper salary adjustment shall be made as of the first pay period following the action taken by the director; and
    - (D) Determine the status of employees holding positions affected by classification actions;
  - (9) Pay any claims against the State as required under chapter 386; and
  - (10) Perform any other lawful acts deemed by the director to be necessary or desirable to carry out the purposes and provisions of this part."

SECTION 9. Section 77-1, Hawaii Revised Statutes, is amended by amending the definition of "director" to read:

""Director" means the director of [personnel services] human resources

development in the case of the State, the administrative director of the courts in the case of the judiciary, the director of civil service in the case of the city and county of Honolulu, or the respective personnel directors in the case of the counties of Hawaii, Maui, and Kauai.”

SECTION 10. Section 77-13, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Salary ranges SC-1, SC-2, and SC-3 shall be utilized in the following manner:

- (1) Salary ranges SC-1, SC-2, and SC-3 may be utilized by the State, the judiciary, and counties for physician and psychiatrist 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] human resources development and approved by the governor, recommended by the administrative director of the courts and approved by the chief justice, 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, not more than two positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by the judiciary, and not more than eight positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by any county. Psychiatrist and physician positions shall be excluded from the above-mentioned totals; and
- (4) The director of [personnel services,] human resources development, the administrative director of the courts, and the personnel directors of each county shall report annually to the legislature as to the manner in which the positions assigned to salary ranges SC-1, SC-2, and SC-3 are being used.”

SECTION 11. Section 79-12, Hawaii Revised Statutes, is amended to read as follows:

“§79-12 **Rules [and regulations]**. The head of a department shall be required to provide all officers and employees under [his] the department head’s supervision with an annual statement showing their accumulated annual leave and sick leave. The director of [personnel services] human resources development of the State and the respective directors of personnel services for each of the political subdivisions of the State shall [promulgate] adopt rules [and regulations] relating to leaves of absences provided by this chapter, subject to the approval of the governor, in the case of the State, and the respective mayors and legislative bodies, in the case of the counties.”

SECTION 12. Section 80-4, Hawaii Revised Statutes, is amended by amending subsection (l) to read as follows:

“(1) The department of [personnel services] human resources development of the State and the departments of civil service in the political subdivisions of the State shall each be responsible for the proper administration of the provisions of this section in the respective jurisdictions. Rules [and regulations] for the

proper administration and regulation of hours of work and overtime compensation of officers and employees of the State and its municipal subdivisions shall be [promulgated] adopted by the respective personnel directors of the State and its municipal subdivisions, subject to the approval of the governor for the state rules, the mayor of the city and county of Honolulu for the rules of the city and county, and the chief executive officer for the rules of each of the counties of Hawaii, Kauai, and Maui. The rules [and regulations] shall [be such as to] obtain, so far as possible, uniformity and practicability in the application of this section.”

SECTION 13. Section 81-2, Hawaii Revised Statutes, is amended to read as follows:

“§81-2 **Advisory committee on training established.** There is established an advisory committee on training to be made up of the director of [personnel services,] human resources development, the director of finance, the director of the personnel system of the judiciary, the directors of the personnel departments of the several counties, the dean of continuing education, and three members from among the exclusive representatives of collective bargaining units 1, 2, 3, 4, 9, 10, and 13. The committee shall meet at any time upon the call of the chairperson but at least once yearly to recommend program plans and strategies for an overall state training plan, assist in coordinating course offerings, and make recommendations for updating the state training manual as necessary; provided that the authority of the committee shall be advisory as opposed to policy-making. The director of [personnel services] human resources development shall chair the committee.”

SECTION 14. Section 87-1, Hawaii Revised Statutes, is amended by amending the definition of “employee” to read:

- “(5) “Employee” means an employee or officer of the state or county government or the legislature,
- (A) Including:
- (i) An elective officer or a person who has served as a member of the legislature for at least ten years;
  - (ii) A per diem employee;
  - (iii) An officer or employee under an authorized leave of absence;
  - (iv) An employee of the Hawaii national guard although paid from federal funds;
  - (v) A retired member of the [employees] employees’ retirement system, the county pension system, or the police, firefighters, or bandsmen pension system of the State or county;
  - (vi) A salaried and full-time member of a board, commission, or agency appointed by the governor or the mayor of a county; and
  - (vii) A person employed by contract for a period not exceeding one year, where the director of [either] human resources development, personnel services, or civil service has certified that the service is essential or needed in the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the

service cannot be obtained through normal civil service recruitment procedures,

- (B) But excluding:
- (i) A designated beneficiary of a retired member of the [employees] employees' retirement system, the county pension system, or the police, firefighters, or bandsmen pension system of the State or county;
  - (ii) Except as allowed under (5)(A)(vii), a person employed temporarily on a fee or contract basis; and
  - (iii) A person employed for less than three months and whose employment is less than one-half of a full-time equivalent position."

SECTION 15. Section 89-19, Hawaii Revised Statutes, is amended to read as follows:

"[[§89-19]] **Chapter takes precedence, when.** This chapter shall take precedence over all conflicting statutes concerning this subject matter and shall preempt all contrary local ordinances, executive orders, legislation, or rules[, or regulations] adopted by the State, a county, or any department or agency thereof, including the departments of human resources development or of personnel services or the civil service commission."

SECTION 16. Section 89C-3, Hawaii Revised Statutes, is amended to read as follows:

"**§89C-3 Adjustments for officers and employees covered by chapter 77.** The state director of human resources development and the directors of personnel services of the [State and] counties who shall serve as representatives of their respective chief executives, and the administrative director of the courts who shall serve as the representative of the chief justice, shall decide by majority vote on the adjustments to be made under this chapter for officers and employees covered under chapter 77. [Such] Any adjustments and their effective dates shall be uniform among the jurisdictions."

SECTION 17. Section 89C-4, Hawaii Revised Statutes, is amended to read as follows:

"**§89C-4 Adjustments for other officers and employees.** (a) The respective representatives of the State, counties, and the judiciary shall submit to their respective chief executives and to the chief justice, recommendations on the adjustments to be made under this chapter for other officers and employees within their respective personnel systems. The conference of personnel directors shall confer prior to the submittal of any recommended adjustment by each director to the director's chief executive or by the administrative director of the courts to the chief justice. [Such] Any adjustments and their effective dates shall be uniform, if practicable, among the jurisdictions.

(b) The superintendent of education and the president of the University of Hawaii shall submit to the board of education and the board of regents, respectively, recommendations on the adjustments to be made under this chapter for officers and employees within their respective personnel systems. The superintendent and the president shall confer with the state director of [personnel services]



human resources development prior to the submittal of any recommended adjustment. Any adjustments adopted by the board of education or the board of regents which presently require the approval of the governor shall remain subject to the approval of the governor.

(c) The auditor, the director of the legislative reference bureau, and the ombudsman shall decide by majority vote on the adjustments to be made under this chapter for officers and employees within their respective offices, including employees of the state ethics commission which is administratively within the office of the auditor. The auditor, the director of the legislative reference bureau, and the ombudsman shall confer with the state director of [personnel services] human resources development prior to voting on any adjustment. [Such] Any adjustments and their effective dates shall be uniform for employees under sections 23-8, 23G-2, 84-35, and 96-3.”

SECTION 18. Section 89C-6, Hawaii Revised Statutes, is amended to read as follows:

“**§89C-6 Chapter takes precedence, when.** Adjustments made in accordance with this chapter shall take precedence over all contrary local ordinances, executive orders, legislation, or rules [or regulations] adopted by the State or a county, or any department, agency, board, or commission thereof, including the departments of human resources development or of personnel services or the civil service commissions.”

SECTION 19. Act 157, Session Laws of Hawaii 1993, is amended by amending section 79- of section 2 to read as follows:

“**§79- Leave sharing program.** (a) The chief executive of the State or a county may establish a program to allow employees to donate accumulated vacation leave credits to another employee within the same jurisdiction who has a serious personal illness or injury. The program shall allow employees who are not entitled to vacation leave to donate accumulated sick leave credits.

(b) The director of human resources development or of personnel services of a jurisdiction desiring to establish a leave sharing program shall adopt rules pursuant to chapter 91 governing donors, recipients, and an approval process that ensures fair treatment and freedom from coercion of employees and imposes no undue hardship on the employer’s operations. At a minimum, the rules shall require that an eligible recipient must have:

- (1) No less than six months of service within the respective jurisdiction;
- (2) Exhausted or is about to exhaust all vacation leave, sick leave, and compensatory time credits;
- (3) A personal illness or injury certified by a competent medical examiner as being serious and the cause of the recipient’s inability to work; provided that, the illness or injury is not covered under chapter 386 or, if covered, all benefits under chapter 386 have been exhausted; and
- (4) No disciplinary record of sick leave abuse within the past two years.”

SECTION 20. Act 329, Session Laws of Hawaii 1991, is amended by amending section 1 to read as follows:

“SECTION 1. There is established a commission to be known as the Martin Luther King, Jr., commission, which shall consist of thirteen members to be appointed by the governor in the manner provided by section 26-34. Nine members shall be appointed from among the following categories, provided that at least one member shall be appointed from each category:

- (1) Ethnic groups;
- (2) Religious groups;
- (3) Labor;
- (4) Business;
- (5) Education;
- (6) Government; and
- (7) Community service.

In addition, the governor shall appoint one member from each of the four counties.

The term of all appointments shall be four years. The governor shall appoint the chairperson of the commission from among the members.

The members of the commission shall serve without compensation but shall be entitled to reimbursement for expenses, including travel expenses, necessary for the performance of their duties.

The commission shall coordinate all commission sponsored arrangements for the annual celebration generally observed throughout Hawaii on the third Monday of January to commemorate Martin Luther King, Jr. The commission may assist in coordinating events not sponsored by the commission.

The commission is placed within the department of [personnel services] human resources development for administrative purposes.”

SECTION 21. Sections 23-8, 23-12, 23G-2, 26-2, 76-3, 76-10, 76-11, 76-11.5, 76-14, 76-15, 76-16, 76-17, 76-18, 76-19, 76-20, 76-21, 76-22, 76-23, 76-24, 76-25, 76-28, 76-30, 76-35, 76-36, 76-37, 76-39, 76-41, 76-42, 76-43, 76-48, 76-49, 76-52, 76-53, 76-54, 76-56, 76-78, 78-1, 78-51, 79-31, 80-21, 81-1, 81-21, 82-5, 82-6, 83-2, 83-3, 83-4, 85-33, 85-38, 85-47, 88E-3, 88E-4, 88E-5, 90-3, 92F-19(a)(10), 96-3, 296-15.6, 304-13, 314-15, 314-16, 314-17, 348E-2, 348E-6, and 367-2, Hawaii Revised Statutes, are amended by replacing every reference to the “director of personnel services” or like term with “director of human resources development” or like term and by replacing every reference to the “department of personnel services” or like term with “department of human resources development” or like term.

SECTION 22. Amendment of conflicting laws. All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform herewith. All Acts passed during this Regular Session of 1994, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such Acts specifically provide that the Act relating to a “department of human resources development” is being amended. Amendments made to sections of the Hawaii Revised Statutes that are amended by this Act as of a future effective date shall include amendments made after the approval of this Act and before the effective date of the amendments made by this Act, to the extent that the intervening amendments may be harmonized with the amendments made by this Act.

SECTION 23. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 24. This Act shall take effect on July 1, 1994.

(Approved May 6, 1994.)

Notes

- 1. Comma should be underscored.
- 2. Lead language missing.

ACT 57

H.B. NO. 3329

A Bill for an Act Relating to Hawaii State Library Foundation Concessions at Public Library Facilities.

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

SECTION 1. Chapter 312, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§312- Hawaii state library foundation concessions; use of public library facilities.** (a) Notwithstanding any law to the contrary, the department of education, through the state librarian, shall be authorized to issue licenses, revocable permits, concessions, or rights of entry to the Hawaii state library foundation for the use of public library system facilities and grounds and for such periods of use as deemed appropriate by the department. All such dispositions, including those in excess of fourteen days, need not be approved by the board of land and natural resources; provided that approval by the board of land and natural resources shall be required when such dispositions are for periods in excess of one year.

(b) Notwithstanding any law to the contrary, all net income or proceeds received by the Hawaii state library foundation from the operation of any concession, vending machine, or other for-profit business enterprise within, or on the grounds of, any state library facility shall be deposited into the Hawaii state library foundation trust fund. The disposition of such net income or proceeds shall be subject to the provisions of section 312-3.7.”

SECTION 2. Chapter 312, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§312- Disposition of fines and related income.** Unless otherwise provided by law, income from the operation of libraries that are financially supported by the State shall be deposited with the director of finance to the credit of the general fund; provided that moneys or properties donated for library use and patrons’ deposits shall be deposited and accounted for in accordance with rules adopted by the comptroller.”

SECTION 3. Section 102-14, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

**“(g)** This section shall not apply to the University of Hawaii system, public library system[,] facilities, department of education facilities, department of transportation airport and harbor restaurant and lounge facilities and operations, public parks, and state and county facilities designed and intended for use as facilities for entertainment and other public events.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

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

(Approved May 6, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 58

S.B. NO. 2041

A Bill for an Act Relating to Admission to Psychiatric Facility.

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

SECTION 1. Section 334-59, Hawaii Revised Statutes, is amended to read as follows:

“**§334-59 Emergency examination and hospitalization.** (a) Initiation of proceedings. An emergency admission may be initiated as follows:

- (1) If a police [[]officer[]] has reason to believe that a person is imminently dangerous to self or others, or is gravely disabled, or is obviously ill, the officer shall call for assistance from the mental health emergency workers designated by the director. Upon determination by the mental health emergency workers that the person is imminently dangerous to self or others, or is gravely disabled, or is obviously ill, the person shall be transported by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A police officer may also take into custody and transport to any facility designated by the director any person threatening or attempting suicide. The [[]officer[]] shall make application for the examination, observation, and diagnosis of the person in custody. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into custody and the reasons therefor which shall be transmitted with the person to [some] a physician or psychologist at the facility.
- (2) Upon written or oral application of any licensed physician, psychologist, attorney, member of the clergy, health or social service professional, or any state or county employee in the course of employment, a judge may issue an ex parte order orally, but shall reduce the order to writing by the close of the next court day following the application, stating that there is probable cause to believe [a] the person is mentally ill or suffering from substance abuse, is imminently dangerous to self or others, or is gravely disabled, or is obviously ill, and in need of care [and/or] or treatment, or both, giving the findings on which the conclusion is based, and directing that a police [[]officer[]] or other suitable individual take the person [[]into[]] custody and deliver the person to the nearest facility designated by the director for emergency examination and treatment. The ex parte order shall be made a part of the patient’s clinical record. If the application is oral, the person making the application shall

reduce the application to writing and shall submit the same by noon of the next court day to the judge who issued the oral ex parte order. The written application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.

- (3) Any licensed physician or psychologist who has examined a person and has reason to believe the person is:

(A) [mentally] Mentally ill or suffering from substance abuse[, and];<sup>1</sup>

(B) [is imminently] Imminently dangerous to self or others, or is gravely disabled, or is obviously ill[.]; and

(C) [is in] In need of care [and/or] or treatment[.];

may direct transportation, by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization [and]. A licensed physician may administer such treatment as is medically necessary,<sup>1</sup> for the person's safe transportation. A licensed psychologist may administer such treatment as is psychologically necessary.

(b) Emergency examination. A patient who is delivered for emergency examination and treatment to a facility designated by the director shall be examined by a licensed physician without unnecessary delay, and may be given such treatment as is indicated by good medical practice. A psychiatrist or psychologist may further examine the patient to diagnose the presence or absence of a mental disorder, assess the risk that the patient may be dangerous to self or others, or is gravely disabled, or is obviously ill, and assess whether or not the patient needs to be hospitalized.

(c) Release from emergency examination. If the physician who performs the emergency examination, in consultation with a psychologist if applicable, concludes that the patient need not be hospitalized, the patient shall be discharged immediately unless the patient is under criminal charges, in which case [he] the patient shall be returned to the custody of a law enforcement officer.

(d) Emergency hospitalization. If the physician or the psychologist who performs the emergency examination has reason to believe that the patient is:

(1) [mentally] Mentally ill or suffering from substance abuse[, and];

(2) [is imminently] Imminently dangerous to self or others, or is gravely disabled, or is obviously ill[.]; and<sup>2</sup>

(3) [is in] In need of care [and/or] or treatment, or both;

the physician or the psychologist may [hospitalize] direct that the patient be hospitalized on an emergency basis [and/or] or cause the patient to be transferred to another psychiatric facility for emergency hospitalization[.], or both. The patient shall have the right immediately upon admission to telephone the patient's guardian or a family member or an adult friend and an attorney. If the patient declines to exercise that right, the staff of the facility shall inform [an] the adult patient of the right to waive notification to the family and shall make reasonable efforts to ensure that the patient's guardian or family is notified of the emergency admission but the patient's family need not be notified if the patient is an adult and requests that there be no notification. The patient shall be allowed to confer with an attorney in private.

(e) Release from emergency hospitalization. If at any time during the period of emergency hospitalization the responsible physician concludes that the patient no longer meets the criteria for emergency hospitalization the physician shall discharge the patient. If the patient is under criminal charges, the patient shall be returned to the custody of a law enforcement officer. In any event, the patient must be released within forty-eight hours of the patient's admission,

unless the patient voluntarily agrees to further hospitalization, or a proceeding for court-ordered evaluation or hospitalization, or both, is initiated as provided in section 334-60.3. If that time expires on a Saturday, Sunday, or holiday, the time for initiation is extended to the close of the next court day. Upon initiation of the proceedings the facility shall be authorized to detain the patient until further order of the court.”

SECTION 2. Section 334-60.3, Hawaii Revised Statutes, is amended to read as follows:

**“[§334-60.3] Initiation of proceeding for involuntary hospitalization.** (a) Any person may file a petition alleging that a person located in the county meets the criteria for commitment to a psychiatric facility. The petition shall be executed subject to the penalties of perjury but need not be sworn to before a notary public. The attorney general, the attorney general’s deputy, special deputy, or appointee designated to present the case shall assist the petitioner to state the substance of the petition in plain and simple language. The petition may be accompanied by a certificate of [a] the licensed physician or psychologist who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to medical or psychological examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the signs and symptoms relied upon by the physician or psychologist to determine the person is in need of care or treatment, or both, and whether or not the person is capable of realizing and making a rational decision with respect to the person’s need for treatment. If the petitioner believes that further evaluation is necessary before commitment, the petitioner may request such further evaluation.

(b) In the event the subject of the petition has been given an examination, evaluation, or treatment in a psychiatric facility within five days before submission of the petition, and hospitalization is recommended by the staff of the facility, the petition may be accompanied by the administrator’s certificate in lieu of a physician’s or psychologist’s certificate.”

SECTION 3. Section 334-60.5, Hawaii Revised Statutes, is amended by amending subsections (g), (h), and (i) to read as follows:

“(g) No individual may be found to require [medical] treatment in a psychiatric facility unless at least one physician or psychologist who has personally examined the individual testifies in person at the hearing. This testimony may be waived by the subject of the petition. If the subject of the petition has refused to be examined by a licensed physician[,] or psychologist, the subject may be examined by a court-appointed licensed physician[,] or psychologist. If the subject refuses and there is sufficient evidence to believe that the allegations of the petition are true, the court may make a temporary order committing the subject to a psychiatric facility for a period of not more than five days for the purpose of a diagnostic examination and evaluation. The subject’s refusal shall be treated as a denial that the subject is mentally ill or suffering from substance abuse. Nothing [herein,] in this section, however, shall limit the individual’s privilege against self-incrimination.

(h) The subject of the petition in a hearing under this section has the right to secure an independent medical or psychological evaluation and present evidence thereon.

## ACT 59

(i) If after hearing all relevant evidence, including the result of any diagnostic examination ordered by the court, the court finds that an individual is not a person requiring medical, psychiatric, psychological, or other rehabilitative treatment or supervision, the court shall order that the individual be discharged if the individual has been hospitalized prior to the hearing. If the court finds that the criteria for involuntary hospitalization under section 334-60.2(1) has been met beyond a reasonable doubt and that the criteria under sections 334-60.2(2) and 334-60.2(3) have been met by clear and convincing evidence, the court may issue an order to any police officer to deliver the subject to a facility that has agreed to admit the subject as an involuntary patient, or if the subject is already a patient in a psychiatric facility, authorize the facility to retain the patient for treatment for a period of ninety days unless sooner discharged. An order of commitment shall specify which of those persons served with notice pursuant to section 334-60.4, together with such other persons as the court may designate, shall be entitled to receive any subsequent notice of intent to discharge, transfer, or recommit."

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

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

(Approved May 6, 1994.)

### Notes

1. Should be underscored.
2. "And" should not be underscored.

## ACT 59

S.B. NO. 2923

A Bill for an Act Relating to Aviation Fuel Set-aside for Emergency and Essential Services.

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

SECTION 1. Section 125C-3, Hawaii Revised Statutes, is amended to read as follows:

"§125C-3 Powers in a shortage. When a shortage as defined in section 125C-2 exists, the governor or the governor's authorized representative, to ensure that petroleum products are made available to the public in an orderly, efficient, and safe manner, may:

- (1) Control the retail distribution and sale of petroleum products by adopting rules that may include, but are not limited to, the following measures:
  - (A) Restricting the sale of petroleum products to specific days of the week, hours of the day or night, [odd] odd- and even-numbered calendar days, and vehicles having less than a specified amount of gasoline in their tanks, with exceptions for certain designated geographical areas;
  - (B) Restricting sales of petroleum products by dealers to daily allocations, which shall be determined by dividing the monthly allocation by the number of selling days per month;

- (C) Requiring dealers to post signs designating their hours of operation and the sell-out of daily allocation;
  - (D) Instituting a statewide rationing plan; and
  - (E) Allowing for special handling for commercial and emergency-user vehicles[.];
- (2) Require that a percentage of petroleum products, not to exceed five per cent, be set aside to alleviate hardship; provided that aviation gasoline set aside shall not exceed ten per cent;
  - (3) Purchase and resell or otherwise distribute petroleum products, and purchase and resell or otherwise distribute ethanol that is produced within the State and can be used as a substitute for petroleum products;
  - (4) Receive, expend, or use contributions or grants in money or property, or special contributions thereof for special purposes not inconsistent with this chapter;
  - (5) Borrow and expend moneys needed to exercise the powers [herein] granted[;] under this section;
  - (6) Contract in the name of the State for the purpose of implementing this chapter or any part thereof; and
  - (7) Exercise the powers [herein] granted under this section to the degree and extent deemed by the governor to be necessary, including the temporary or indefinite suspension of all or part of the measures taken, as the governor deems appropriate.”

SECTION 2. Section 125C-21, Hawaii Revised Statutes, is amended by amending the definition of “petroleum product” to read as follows:

““Petroleum product” means heating oils, light and heavy diesel oil, motor gasoline, propane, butane, residual fuel oils, [and] kerosene, [except for] and aviation fuels[.] used for emergency and essential intrastate air transport services, but excluding all other aviation fuels.”

SECTION 3. Section 125C-23, Hawaii Revised Statutes, is amended to read as follows:

“**§125C-23 Set-aside system.** The state energy resources coordinator shall adopt rules establishing a petroleum products set-aside system. The purpose of this system shall be:

- (1) [the] The protection of public health, safety, and welfare;
- (2) [the] The maintenance of public services, utilities, and transportation[;], including emergency and essential intrastate air transport services;
- (3) [the] The maintenance of agricultural operations, including farming, horticulture, dairy, fishing, and related services;
- (4) [the] The preservation of economically sound and competitive industry, through the equitable acquisition and distribution of petroleum products; and
- (5) [the] The promotion of efficiency, with minimum economic disruptions, during a shortage of petroleum products.

The rules establishing the set-aside system shall be adopted in accordance with chapter 91.”



**ACT 60**

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

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

(Approved May 6, 1994.)

**ACT 60**

H.B. NO. 3160

A Bill for an Act Making Emergency Appropriations for Child Foster Care Payments.

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

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

SECTION 2. Act 289, Session Laws of Hawaii 1993, appropriated a certain designated sum to the department of human services to provide funds for child foster care payments under the family and adult services division for the fiscal period beginning July 1, 1993, and ending June 30, 1994.

A critical funding emergency exists. The child foster care payment program will expend all appropriated funds before the end of the current fiscal year and the department will be unable to meet its fiscal obligation to provide foster board and board-related costs for children needing out-of-home care.

The purpose of this Act is to appropriate moneys to prevent the reduction or discontinuance of board and board-related payments to children requiring out-of-home care.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,960,353, or so much thereof as may be necessary for fiscal year 1993-1994, to be used for board and board-related costs of children in foster care.

SECTION 4. The sum appropriated shall be expended by the department of human services for the purposes of this Act.

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

(Approved May 23, 1994.)

**ACT 61**

H.B. NO. 3133

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

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

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for

legislative relief as to the following named persons, firms, corporations, and entities, such claims being against the State for overpayment of taxes, or for refunds, reimbursements, payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

REFUND OF TAXES:	Amount
None.	
<b>JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:</b>	<b>Amount</b>
Anglophile Ltd., et al. v. State of Hawaii Civil No. 90-3716-11, First Circuit	\$ 25,000.00 Settlement
Linda Fern Barney-Campbell v. The University of Hawaii, et al. Civil No. 92-4226-11, First Circuit	\$ 62,138.88 Judgment
Amount of Judgment:	\$59,604.47
Interest at 4% from 7/9/93:	\$ 2,534.41
Claim of Rosemarie Cavanaugh	\$ 30,000.00 Settlement
Margaret Dancel v. State of Hawaii, et al. Civil No. 92-627, Third Circuit	\$ 22,203.74 Judgment
Amount of Judgment:	\$21,671.77
Interest at 4% from 12/20/93:	\$ 531.97
John A. Duncan, et al. v. Department of Education, et al. Civil No. 91-0741-03, First Circuit	\$ 12,000.00 Settlement
Eugenio Echevarria, et al. v. Department of Transportation, et al. Civil No. 92-0114-01, First Circuit	\$ 25,000.00 Settlement
Claim of Rae-Jean Chun Fat	\$120,000.00 Settlement
Alex Fiaseu, et al. v. State of Hawaii, et al. Civil No. 91-2825-08, First Circuit	\$775,000.00 Settlement
Jeffrey L. Franklin v. State of Hawaii Civil No. 92-4284-11, First Circuit	\$115,000.00 Judgment
Vea Lynn Green v. State of Hawaii Civil No. 92-4474-12, First Circuit	\$125,000.00 Settlement
Gail Kealoha, et al. v. The Department of Education of the State of Hawaii Civil No. 92-518, Third Circuit	\$ 25,000.00 Settlement

**ACT 61**

Joseph Kealoha v. State of Hawaii Civil No. 93-1243-03, First Circuit	\$ 42,500.00 Settlement
John K. Kingsley v. Dept. of Human Services OFCCP I 920187	\$ 75,000.00 Settlement
Thomas S. Litsey v. State of Hawaii Civil No. 93-3371-08, First Circuit	\$ 20,000.00 Settlement
Sidney Lum v. State of Hawaii, et al. Civil No. 93-1842-05, First Circuit	\$ 65,000.00 Settlement
Lisa Merlin v. Randolph Y. Kobayashi, et al. Civil No. 91-00567 DAE, U.S.D.C.	\$ 56,250.00 Settlement
Glenn W. Molina v. State of Hawaii Civil No. 93-1244-03, First Circuit	\$ 30,000.00 Judgment
Tom Orlando v. State of Hawaii, et al. Civil No. 92-321, Third Circuit Amount of Judgment: \$25,720.31 Interest at 4% from 5/24/93: \$ 1,223.30	\$ 26,943.61 Judgment
Anthony Palabay v. State of Hawaii, et al. Civil No. 92-4640-12, First Circuit Amount of Judgment: \$75,000.00 Interest at 4% from 1/19/94: \$ 1,594.52	\$ 76,594.52 Judgment
Ronald Peters, et al. v. Gerald Lum, et al. Civil No. 92-0760(1), Second Circuit	\$ 18,000.00 Settlement
Claim of John Mullen & Co.	\$ 20,000.00 Settlement
Donald Santiago v. Cleveland King, et al. Civil No. 87-0039-01, First Circuit	\$175,000.00 Settlement
Barry Schnabel v. State of Hawaii Civil No. 90-2402-08, First Circuit Amount of Judgment: \$47,526.42 Interest at 4% from 8/31/93: \$ 1,744.81	\$ 49,271.23 Judgment
Marlene J. Silva v. State of Hawaii, et al. Civil No. 92-0032, Fifth Circuit	\$ 25,000.00 Settlement
Ok Ji Wang v. State of Hawaii Civil No. 90-0647-03, First Circuit Amount of Settlement: \$175,000.00 Interest at 4% from 6/17/93: \$ 7,882.19	\$182,882.19 Settlement
Roy T. Yamamoto v. Roxana Padro, et al. Civil No. 92-3848-10, First Circuit	\$ 53,000.00 Settlement

Zhi-Nan Zheng v. University of Hawaii, et al. Civil No. 91-3377-10, First Circuit	\$485,000.00 Settlement
Irineo Eder, et al. v. Department of Education, et al. Civil No. 92-0250, Fifth Circuit	\$600,000.00 Settlement
Tofatu L. Saole v. State of Hawaii, et al. Civil No. 93-0412-02, First Circuit Amount of Settlement: \$40,693.09 Interest at 4% from 2/23/94: \$ 709.06	\$ 41,402.15 Judgment
Linda C. Tseu (Hawaii Civil Rights Commission), et al. v. University of Hawaii, et al. Civil No. 92-038, Third Circuit Noelie M. Rodriguez v. University of Hawaii, et al. Civil No. 93-027, Third Circuit Noelie M. Rodriguez v. University of Hawaii, et al. Civil No. 93-00105 DAE, U.S.D.C.	\$250,000.00 Global Settlement
Claim of Shereen Balles	\$ 68,500.00 Settlement
Joseph Kailiwai v. Kalaupapa Settlement, et al. Civil No. 93-0512(1), Second Circuit	\$ 25,000.00 Settlement
Bruce Lagareta v. Department of Land and Natural Resources Civil No. 93-2704-07, First Circuit	\$125,000.00 Settlement
Jocelyn C. Maximo, et al. v. State of Hawaii, et al. Civil No. 92-1017-03, First Circuit	\$470,000.00 Settlement
James McHugh v. Torben Neilsen, et al. No. C 92 5080 BAC-ARB U.S.D.C. N.D. Cal. Amount of Settlement: \$20,000.00 Interest at 3.54% from 7/13/93: \$ 773.95	\$ 20,773.95 Settlement
R.M. Builders, Inc. v. FHB Inc., et al. Arb. No. 78-110-0075-92 Amount of Settlement: \$16,500.00 Interest at 5% from 5/19/93: \$ 5,201.84	\$ 21,701.84 Settlement
Lynn Shaffer, et al. v. John Waihee, et al. Civil No. 90-00745 ACK-BMK, U.S.D.C.	\$ 30,000.00 Settlement
Daniel K. Tote v. State of Hawaii Civil Nos. 91-3922; 92-0162, First Circuit	\$125,000.00 Settlement

ACT 62

MISCELLANEOUS CLAIMS:

Claim of Joseph Johns	\$ 25.00
Louise R. Kimura	\$ 64.00
Claim of Wanda Lehano	\$ 250.00
Estate of Yoshiko Uemura	\$ 35.00

SECTION 2. The sums hereinabove appropriated may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in the several amounts hereinabove set forth upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of taxation as to claims for refunds of taxes, and (2) upon vouchers approved by the attorney general 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 any rate stated above, shall be limited to the period from the date of judgment or settlement, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which that statute applies.

SECTION 4. All unexpended and unencumbered balances of the appropriations made by section 1 of this Act as of the close of business on June 30, 1995, shall lapse into the general fund of the State.

SECTION 5. If any provision of this Act or the application thereof to any person or entity or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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

(Approved May 23, 1994.)

ACT 62

S.B. NO. 905

A Bill for an Act Relating to the Airport Revenues.

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

SECTION 1. Section 261-7, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The department may fix and regulate, from time to time, reasonable landing fees for aircraft, including the imposition of landing surcharges or differential landing fees, and other reasonable charges for the use and enjoyment of the airports and the services and facilities furnished by the department in connection therewith, including the establishment of a statewide system of airports landing [fee] fees, a statewide system of airports support charges, and joint use charges for the use of space shared by users, which fees and charges may vary among different classes of users such as foreign carriers, domestic carriers, inter-island

carriers, air taxi operators, helicopters, and such other classes as may be determined by the director, [of transportation,] for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature.

In setting airports rates and charges, including landing fees, the director may enter into contracts, leases, licenses, and other agreements with aeronautical users of the statewide system of airports containing such terms, conditions, and provisions as the director deems advisable.

If the director has not entered into contracts, leases, licenses, and other agreements with any or fewer than all of the aeronautical users of the statewide system of airports prior to the expiration of an existing contract, lease, license, or agreement, the director shall set and impose rates, rentals, fees, and charges pursuant to this subsection without regard to the requirements of chapter 91; provided that a public informational hearing shall be held on the rates, rentals, fees, and charges.

The director shall develop rates, rentals, fees, and charges in accordance with a residual methodology so that the statewide system of airports shall be, and always remain, self-sustaining. The rates, rentals, fees, and charges shall be set at such levels as to produce revenues which, together with aviation fuel taxes, shall be at least sufficient to meet the expenditures of the statewide system of airports set forth in section 261-5(a), including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds.

The director may develop and formulate methodology in setting the various rates, rentals, fees, and charges imposed and may determine usage of space, estimate landed weights, and apply such portion of nonaeronautical revenue deemed appropriate in determining the rates, rentals, fees, and charges applicable to aeronautical users of the statewide system of airports.

The rates, rentals, fees, and charges determined by the director in the manner set forth in this subsection shall be those charges payable by the aeronautical users for the periods immediately following the date of expiration of the existing contract, lease, license, or agreement. If fees are established pursuant to this section, the department shall prepare a detailed report on the circumstances and rates and charges that have been established, and shall submit the report to the legislature no later than twenty days prior to the convening of the next regular session.

If a schedule of rates, rentals, fees, and charges developed by the director in accordance with this section is projected by the department to produce revenues which, together with aviation fuel taxes, will be in excess of the amount required to meet the expenditures of the statewide system of airports set forth in section 261-5(a), including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds, the department shall submit the schedule of rates, rentals, fees, and charges to the legislature prior to the convening of the next regular session of the legislature. Within forty-five days after the convening of the regular session, the legislature may disapprove any schedule of rates, rentals, fees, and charges required to be submitted to it by this section by concurrent resolution. If no action is taken by the legislature within the forty-five day period the schedule of rates, rentals, fees, and charges shall be deemed approved. If the legislature disapproves the schedule within the forty-five day period, the director shall develop a new schedule of rates, rentals, fees, and charges in accordance with this section within seventy-five days of the disapproval. Pending the

## ACT 63

development of a new schedule of rates, rentals, fees, and charges, the schedule submitted to the legislature shall remain in force and effect.”

SECTION 2. Section 261-13.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) To the fullest extent possible within the State’s authority to act in the area of airport and air traffic safety, the department of transportation shall be responsible for promoting safe operating conditions and alleviating safety hazards due to air traffic congestion at airports under its control. To this end, the department, in close cooperation with appropriate federal authorities and other affected parties, shall examine and conduct research into the causes of and solutions for safety problems at such airports, especially those problems associated with air traffic congestion. Pursuant to sections 261-12 and 261-13, the director [of transportation] shall adopt such rules[, regulations,] and standards which may include [the imposition of landing surcharges or differential landing fees,] the assignment of particular runways for particular uses, the establishment of the number and types of aircraft allowed to use each public airport, and the use of similar measures where such actions may contribute to the segregation of different types of aircraft and to the reduction of peak air traffic usage at airports under state control.”

SECTION 3. This Act shall be performed to the extent permissible under the United States Constitution and federal law without causing a violation of the United States Constitution, federal grant agreements, federal law, or federal regulations.

SECTION 4. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and only to the extent necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 5. 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 this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 23, 1994.)

## ACT 63

H.B. NO. 1241

A Bill for an Act Relating to Public Employment.

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

PART I

SECTION 1. The purpose of this part is to provide the necessary appropriation or authorization, as the case may be, to allow for the implementation of salary adjustments during fiscal biennium 1993-1995, and authorization for the implementation of cost items in fiscal biennium 1995-1997, as provided in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 3.

SECTION 2. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 3:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$3,348,988	\$6,436,126
Special Funds	\$ 457,190	\$ 931,260
Federal Funds	\$ 394,825	\$ 809,477
Other Funds	\$ 94,795	\$ 194,541

SECTION 3. Funds appropriated or authorized by section 2 shall be allotted by the director of finance in the respective fiscal years for the purposes of this part.

SECTION 4. There are appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 3:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$ 409,377	\$ 953,811
Special Funds	\$ 20,476	\$ 44,453

SECTION 5. Funds appropriated or authorized by section 4 shall be allotted by the chief justice in the respective fiscal years for the purposes of this part.

SECTION 6. Cost items for fiscal biennium 1995-1997 contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 3 are approved for implementation in accordance with law in fiscal biennium 1995-1997.

SECTION 7. Notwithstanding any law to the contrary, the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 3 may include provisions for a reopening date of cost items as defined in section 89-2, Hawaii Revised Statutes.

PART II

SECTION 8. The purpose of this part is to provide the necessary appropriation or authorization, as the case may be, to allow for the implementation of



**ACT 63**

salary adjustments during fiscal biennium 1993-1995, and authorization for the implementation of cost items in fiscal biennium 1995-1997, as provided in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 4.

SECTION 9. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 4:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$ 112,697	\$ 234,965
Special Funds	\$ 22,406	\$ 43,771
Federal Funds	\$ 13,758	\$ 34,212
Other Funds	\$ 4,362	\$ 10,330

SECTION 10. Funds appropriated or authorized by section 9 shall be allotted by the director of finance in the respective fiscal years for the purposes of this part.

SECTION 11. There are appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 4:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$ 35,744	\$ 62,155
Special Funds	\$ 2,109	\$ 4,549

SECTION 12. Funds appropriated or authorized by section 11 shall be allotted by the chief justice in the respective fiscal years for the purposes of this part.

SECTION 13. Cost items for fiscal biennium 1995-1997 contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 4 are approved for implementation in accordance with law in fiscal biennium 1995-1997.

SECTION 14. Notwithstanding any law to the contrary, the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 4 may include provisions for a reopening date of cost items as defined in section 89-2, Hawaii Revised Statutes.

**PART III**

SECTION 15. The purpose of this part is to provide the necessary appropriation or authorization, as the case may be, to allow for the implementation of salary adjustments during fiscal biennium 1993-1995, and authorization for the implementation of cost items in fiscal biennium 1995-1997, as provided in the

agreement negotiated with the exclusive bargaining representative of collective bargaining unit 13.

SECTION 16. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 13:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$2,535,141	\$4,563,189
Special Funds	\$ 327,902	\$ 749,832
Federal Funds	\$ 536,944	\$ 963,106
Other Funds	\$ 18,320	\$ 31,610

SECTION 17. Funds appropriated or authorized by section 16 shall be allotted by the director of finance in the respective fiscal years for the purposes of this part, subject to ratification of the collective bargaining agreement for unit 13 by its members.

SECTION 18. There are appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 13:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$ 351,197	\$ 641,435
Special Funds	\$ 3,308	\$ 5,787

SECTION 19. Funds appropriated or authorized by section 18 shall be allotted by the chief justice in the respective fiscal years for the purposes of this part.

SECTION 20. Cost items for fiscal biennium 1995-1997 contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 13 are approved for implementation in accordance with law in fiscal biennium 1995-1997.

SECTION 21. Notwithstanding any law to the contrary, the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 13 may include provisions for a reopening date of cost items as defined in section 89-2, Hawaii Revised Statutes.

#### PART IV

SECTION 22. The purpose of this part is to provide the necessary appropriation or authorization, as the case may be, to allow for the implementation of salary adjustments during fiscal biennium 1993-1995, and authorization for the implementation of cost items in fiscal biennium 1995-1997, for state officers and employees excluded from collective bargaining.

ACT 63

SECTION 23. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, by the Chief Executive of the State, the Board of Education, and the Board of Regents, as applicable, for state officers and employees excluded from collective bargaining:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$1,067,451	\$2,334,054
Special Funds	\$ 146,794	\$ 331,515
Federal Funds	\$ 57,845	\$ 123,477
Other Funds	\$ 40,073	\$ 110,562

SECTION 24. Funds appropriated or authorized by section 23 shall be allotted by the director of finance in the respective fiscal years for the purposes of this part.

SECTION 25. There are appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, by the chief justice for officers and employees excluded from collective bargaining.

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$ 111,724	\$ 224,573

SECTION 26. Funds appropriated or authorized by section 25 shall be allotted by the chief justice in the respective fiscal years for the purposes of this part.

PART V

SECTION 27. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 28. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 1994, and June 30, 1995, of the respective fiscal years, shall lapse as of those dates.

SECTION 29. The parts of this Act are declared to be severable, and if any part or portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 30. This Act, upon its approval, shall take effect retroactive to July 1, 1993.

(Approved June 2, 1994.)

## ACT 64

H.B. NO. 1609

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

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

## PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 1:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$0	\$3,833,601
Special Funds	\$0	\$ 651,160
Federal Funds	\$0	\$ 83,079
Other Funds	\$0	\$ 15,567

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance in the respective fiscal year for the purposes of this part.

## PART II

SECTION 3. There are appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 1:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$0	\$ 27,477

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the chief justice in the respective fiscal year for the purposes of this part.

## PART III

SECTION 5. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 6. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 1995, shall lapse as of that date.

SECTION 7. This Act, upon its approval, shall take effect retroactive to July 1, 1993.

(Approved June 2, 1994.)

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

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

PART I

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

SECTION 2. The State employers reached a settlement for a two-year collectively bargained agreement with the exclusive representative of bargaining unit 7, University of Hawaii Professional Assembly. This agreement was ratified by the employees concerned on February 11, 1994. An immediate appropriation is needed, because the settlement provides for retroactive payments.

SECTION 3. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-1995 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 7:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	\$ 743,877	\$5,762,175
Special Funds	\$ 1,974	\$ 23,527
Federal Funds	\$ 12,184	\$ 138,280

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

PART II

SECTION 5. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 6. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 1994, and June 30, 1995, of the respective fiscal years, shall lapse as of those dates.

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

(Approved June 2, 1994.)

ACT 66

H.B. NO. 1618

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

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

PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-95 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 10:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	-0-	\$1,822,639
Special Funds	-0-	\$ 358,720
Federal Funds	-0-	\$ 17,059

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance in the respective fiscal year for the purposes of this part.

PART II

SECTION 3. There are appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1993-95 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 10:

	<u>FY 1993-94</u>	<u>FY 1994-95</u>
General Funds	-0-	\$ 24,021

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the chief justice in the respective fiscal year for the purposes of this part.

PART III

SECTION 5. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 6. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 1995, shall lapse as of that date.

SECTION 7. This Act, upon its approval, shall take effect retroactive to July 1, 1993.

(Approved June 2, 1994.)

A Bill for an Act Relating to Tourism.

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

SECTION 1. The legislature finds that the continued health and viability of our visitor industry is of the utmost importance to the economic well-being of our State. The legislature also finds that marketing is one of the primary tools that can guide further development of the visitor industry in the manner most beneficial to the residents of Hawaii and the natural environment. The legislature further finds that the state functional plan on tourism of 1991, prepared by the department of business, economic development, and tourism in accordance with chapter 226, Hawaii Revised Statutes, calls for the formulation of multi-year marketing plans for base markets, developing markets, and new markets.

The purpose of this Act is to:

- (1) Require the office of tourism to prepare and annually update a tourism marketing plan for the upcoming five years;
- (2) Require the office to submit the updated tourism marketing plan to the legislature prior to the convening of each regular session; and
- (3) Require all marketing plans including those of destination marketing organizations receiving state funding and departmentally initiated plans to be submitted prior to finalization to allow the office of tourism to coordinate all the marketing plans with the office's tourism marketing plan.

SECTION 2. Section 201-94, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) The council shall annually review, evaluate, and make recommendations to the department on the State's tourism marketing and promotion programs and activities. Copies of the council's findings and recommendations shall be furnished to the governor and legislature. The [review] reviews and recommendations [by] of the council shall include but not be limited to:

- (1) The [biennial] five-year tourism marketing plan;
- (2) Implementation of the [biennial] five-year tourism marketing plan; and
- (3) Inventory and analysis of visitor satisfaction and [complaints.] complaint reports.”

SECTION 3. Section 203-5, Hawaii Revised Statutes, is amended to read as follows:

“**§203-5 [Biennial] Five-year tourism marketing plan; procedures for submission and evaluation of proposals; measures of effectiveness; report.** (a) The office of tourism shall be responsible for developing [a biennial] and annually updating a tourism marketing plan [to be submitted with the executive budget request] for the subsequent five years that includes but is not limited to the following:

- (1) Identification and evaluation of current and future tourism needs for the different regions of the State;
- (2) Goals and objectives in accordance with identified needs;

- (3) Statewide promotional efforts and programs [including those which may exceed the duration of the biennium];
- (4) [~~Target~~ Targeted markets; [and]
- (5) Measures of effectiveness for [its] the office's promotional programs[.]; and
- (6) Coordination of marketing plans of all destination marketing organizations receiving state funding and departmentally initiated marketing plans prior to finalization of the office's marketing plan.

The five-year tourism marketing plan shall be updated and submitted to the legislature not less than twenty days prior to the convening of each regular session.

(b) All marketing programs, including those of destination marketing organizations receiving state funding and state department initiated plans, prior to finalization, shall be transmitted to the office of tourism for coordination with the office's tourism marketing plan, in accordance with subsection (a). The office of tourism shall be responsible for establishing procedures for the selection and evaluation of statewide tourism promotion projects. The procedures shall include submission of proposals to the office prior to disbursement of any tourism promotion funds, and a final report at the completion of the project to be submitted by the funded entity to the office. All statewide tourism promotion contracts, including the Hawaii Visitors Bureau, shall be subject to this subsection.

(c) In accordance with subsection (a), the office shall be responsible for developing measures of effectiveness to assess the overall benefits and effectiveness of the marketing plan and include documentation of the directly attributable benefits of the plan to the following:

- (1) Hawaii's tourism industry;
- (2) Employment in Hawaii;
- (3) State taxes; and
- (4) The State's lesser known and underutilized destinations.

(d) The office shall submit annual reports regarding the status and execution of the marketing plan and the effectiveness of the promotions to the legislature twenty days prior to the convening of the regular session in each year."

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

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

(Approved June 7, 1994.)

## ACT 68

H.B. NO. 1731

A Bill for an Act Relating to Continuing Education Requirements for Real Estate Licensees.

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

SECTION 1. Act 95, Session Laws of Hawaii 1987, as amended by Act 217, Session Laws of Hawaii 1989,<sup>1</sup> is amended by amending section 3 to read as follows:

"SECTION 3. This Act shall take effect upon its approval and shall [be applied] apply to license renewals for the biennium beginning January 1, 1991



## ACT 69

[and]; provided that this Act shall be repealed as of July 1, 1995.”

SECTION 2. The legislative auditor shall evaluate the continuing education program for real estate brokers and real estate salespersons, and submit a report of the findings and recommendations to the legislature not later than twenty days prior to the convening of the regular session of 1995. The report shall include but not be limited to:

- (1) An assessment of whether the program has improved the protection of the general public regarding real estate transactions;
- (2) An assessment of whether the program should be established pursuant to statute; and
- (3) Any recommendations, including proposed legislation, it deems necessary to improve the program to further protect the public welfare.

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

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

(Approved June 7, 1994.)

### Note

1. Session Laws of Hawaii 1989 not amended.

## ACT 69

H.B. NO. 2075

A Bill for an Act Relating to Government-Owned Hawaiian Fish Ponds.

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

SECTION 1. Section 171-28, Hawaii Revised Statutes, is amended to read as follows:

“§171-28 Government-owned Hawaiian fish ponds. (a) The board [of land and natural resources] may investigate and develop scientific commercial management practices for government-owned Hawaiian fish ponds and reconstruct, rehabilitate, improve, and stock the fish ponds; and expend moneys from the special land and development fund. All revenues derived from any government-owned Hawaiian fish pond shall be deposited in the fund.

(b) The board may lease government-owned Hawaiian fish ponds with legislative authorization as provided under section 171-53(c); provided that in lieu of legislative authorization, the board may lease such fish ponds if:

- (1) A public hearing is conducted on the proposed lease on the island where the fish pond is located;
- (2) The board finds that the proposed lease does not cause a substantial adverse environmental or ecological impact on the fish pond or surrounding area; and
- (3) The proposed lease is not in violation of applicable federal, state, or county laws.”

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

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

(Approved June 7, 1994.)

## ACT 70

H.B. NO. 2186

A Bill for an Act Relating to Motor Vehicles.

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

SECTION 1. Section 286-52, Hawaii Revised Statutes, is amended by amending subsections (b),(c), and (d) to read as follows:

“(b) Within [twenty] thirty calendar days thereafter, the transferee shall forward both the certificate of ownership so [indorsed] endorsed and the current certificate of registration to the director of finance who shall file the same. Whenever a transferee fails to comply with these provisions, the director of finance shall charge a fee of \$50, in addition to the fee provided in the section 286-51, for a new certificate of ownership.

(c) Subsection (b) [of this section], requiring a transferee to forward the certificate of ownership after [indorsement] endorsement and the certificate of registration to the director of finance, shall not apply to the transferee of a vehicle who was not intending to and does not drive the vehicle or permit the vehicle to be driven upon the public highways, but every such transferee [shall], upon transferring the transferee’s interest or title to another, shall give notice of the transfer to the director of finance and [indorse] endorse the certificate of ownership to the new legal owner and the certificate of registration to the new owner; provided that if the director of finance has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, the director may require, as a condition precedent to the transfer, that the registered owner deposit or pay bail with respect to all such summons or citations.

(d) The director of finance, upon receipt of the certificate of ownership properly [indorsed] endorsed and the certificate of registration of the vehicle, shall register the vehicle, and shall issue to the owner and legal owner entitled thereto by reason of the transfer a new certificate of registration and the certificate of ownership, respectively, in the manner and form hereinabove provided for original registration.”

SECTION 2. Section 286-52, Hawaii Revised Statutes, is amended by amending subsection (l) to read as follows:

“(l) A licensed dealer who has forwarded a properly [indorsed] endorsed certificate of ownership and certificate of registration to the director of finance shall be relieved of any civil liability, from the date the transferor delivers the motor vehicle into the transferee’s possession, which the transferor might otherwise subsequently incur by reason solely of being the registered owner of the vehicle; provided that a specific written authorization to forward the certificates has been obtained from the transferee.”

## ACT 71

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

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

(Approved June 7, 1994.)

## ACT 71

H.B. NO. 2238

A Bill for an Act Relating to Naturopathy.

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

SECTION 1. Section 455-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "natural medicine" to read as follows:

““Natural medicine” encompasses substances of botanical, mineral, and animal origin [including], homeopathic preparations thereof[.], and substances whose natural state has been improved by any process that does not substantially alter the molecular structure found in nature, including vitamins, minerals, and amino acids; excluding prescription drugs, with the following exceptions: vitamins, minerals, amino acids, and fatty acids.”

2. By amending the definition of "naturopathy" to read as follows:

““Naturopathy” means the practice of [natural]:

- (1) Natural medicine, natural therapeutics, and natural procedures, for the purpose of removing toxic conditions from the body and improving the quality, quantity, harmony, balance, and flow of the vital fluids, vital tissues, and vital energy; and [the practice of diagnosing,]
- (2) Diagnosing, treating, and caring for patients using a system of practice that bases its treatment of physiological functions and abnormal conditions on natural laws governing the human body: utilizing physiological, psychological, and mechanical methods, such as air, water, light, sunshine, heat and cold, earth, phytotherapy, physiotherapy, mechano-therapy, naturopathic corrections and manipulation, and natural methods or modalities, together with natural or homeopathic medicines, natural foods, and herbs, and nature's remedies[.] of the type taught in education and training at naturopathic medical colleges. The practice of naturopathy excludes surgery, application of x-rays, and [the] prescribing [or], dispensing [of], or using prescription drugs[.] except as provided for in the definition of natural medicine.”

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

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

(Approved June 7, 1994.)

## ACT 72

H.B. NO. 2285

A Bill for an Act Relating to Number Plates.

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

SECTION 1. Section 249-11, Hawaii Revised Statutes, is amended to read as follows:

**“§249-11 Fraudulent use of plates, tags, or emblems and other misdemeanors; penalties.** Any person who manufactures, sells, or distributes vehicle number plates, tags, or emblems of a design and size similar to the currently issued series of number plates, tags, or emblems authorized by the director of finance, or who attaches to and uses on any vehicle plates, tags, or emblems not furnished in accordance with sections 249-1 to 249-13 or 286-53, or who fraudulently uses such number plates, tags, or emblems upon any vehicle other than the one for which the number plates, tags, or emblems were issued, or who molests or disturbs any vehicle which has been seized pursuant to sections 249-1 to 249-13, or any person who knowingly uses a motor vehicle, the tax upon which is delinquent, upon public highways of this State, or any director of finance who issues a certificate of registration or number plates, tags, or emblems to any person who has not paid the tax required by sections 249-1 to 249-13, or any person who violates any of the provisions of such sections, shall be fined not more than \$500.”

SECTION 2. New statutory material is underscored.

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

(Approved June 7, 1994.)

## ACT 73

H.B. NO. 2309

A Bill for an Act Relating to Motor Vehicle Safety Responsibility.

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

SECTION 1. Section 287-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The traffic violations [bureau] bureaus of the district courts, [shall] upon request, shall furnish any person a certified abstract of the [bureau’s] bureaus’ record, if any, of any person relating to all alleged moving violations, as well as any convictions resulting therefrom, arising from the operation of a motor vehicle and any administrative license revocation pursuant to chapter 286, part XIV. The traffic violations [bureau] bureaus may collect a fee, to be a realization of the general fund, of not in excess of [~~\$2~~] \$5 for any such certificate.”

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

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

(Approved June 7, 1994.)

A Bill for an Act Relating to Attorneys' Fees.

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

SECTION 1. Section 607-14, Hawaii Revised Statutes, is amended to read as follows:

**“§607-14 Attorneys' fees in actions in the nature of assumpsit, etc.** In all the courts, in all actions in the nature of assumpsit and in all actions on a promissory note or other contract in writing that provides for an attorney's fee, there shall be taxed as attorneys' fees, to be paid by the losing party and to be included in the sum for which execution may issue, a fee that the court determines to be reasonable; provided that the attorney representing the prevailing party shall submit to the court an affidavit stating the amount of time the attorney spent on the action and the amount of time the attorney is likely to spend to obtain a final written judgment, or, if the fee is not based on an hourly rate, the amount of the agreed upon fee. The court shall then tax attorneys' fees, which the court determines to be reasonable, to be paid by the losing party; provided that this amount shall not exceed twenty-five per cent of the judgment.

Where the note or other contract in writing provides for a fee of twenty-five per cent or more, or provides for a reasonable attorney's fee, not more than twenty-five per cent shall be allowed.

Where the note or other contract in writing provides for a rate less than twenty-five per cent, not more than the specified rate shall be allowed.

[Any law to the contrary notwithstanding, no such attorney's fee shall be allowed to the plaintiff by any court:

- (1) If prior to or at the time the debt was incurred, the debtor did not sign an instrument in writing which provided for the payment of an attorney's fee; and
- (2) If prior to or at the time the debt was incurred, the debtor did sign an instrument in writing which provided for the payment of an attorney's fee and such instrument in writing contains within its principal amount any attorney's fee from a prior debt.]

Where the note or other contract in writing provides for the recovery of attorneys' fees incurred in connection with a prior debt, those attorneys' fees shall not be allowed in the immediate action unless there was a writing authorizing those attorneys' fees before the prior debt was incurred. "Prior debt" for the purposes of this section is the principal amount of a debt not included in the immediate action.

The above fees provided for by this section shall be assessed on the amount of the judgment exclusive of costs and all attorneys' fees obtained by the plaintiff, and upon the amount sued for if the defendant obtains judgment."

SECTION 2. This Act shall apply to actions pending in court from and after the effective date of this Act.

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

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

(Approved June 7, 1994.)

## ACT 75

H.B. NO. 2333

A Bill for an Act Relating to the Convention Center Authority.

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

SECTION 1. Act 96, Session Laws of Hawaii 1988, as amended by Act 159, Session Laws of Hawaii 1992, and Act 241, Session Laws of Hawaii 1993, is amended by amending section 3 to read as follows:

“SECTION 3. This Act shall automatically expire on June 30, [1995.] 1998.

In the event any judicial or quasi-judicial proceeding is commenced regarding the validity of this Act or any section of this Act, or any action of the authority, the running of the period shall be suspended until a final nonappealable determination is made in [said] the judicial or quasi-judicial proceeding.”

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

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

(Approved June 7, 1994.)

## ACT 76

H.B. NO. 2344

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

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

SECTION 1. Act 285, Session Laws of Hawaii 1993, is amended by amending section 4 to read as follows:

“SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary for fiscal [year 1993-1994,] biennium 1993-1995, to the legislative reference bureau for the publication of the replacement volumes to the Hawaii Revised Statutes[.], and development of alternative methods of compiling, distributing, and selling the Hawaii Revised Statutes. Prior to implementing any alternative method of compiling, distributing, or selling the Hawaii Revised Statutes, the legislative reference bureau shall obtain approval from the president of the senate and the speaker of the house of representatives. The legislative reference bureau shall employ such temporary technical and clerical assistants as may be necessary for the purposes of this Act. Funds appropriated for the 1993 supplements by any other act of the 1993 legislature shall be reappropriated for the purposes of this Act.”

SECTION 2. Act 285, Session Laws of Hawaii 1993, is amended by amending section 6 to read as follows:

“SECTION 6. [As] The appropriation authorized by this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made;

ACT 77

provided that as of the close of business on June 30, [1994,] 1996, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.”

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

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

(Approved June 7, 1994.)

ACT 77

H.B. NO. 2460

A Bill for an Act Relating to Condominium Management.

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

SECTION 1. Section 514A-82, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In addition to the requirements of subsection (a), the bylaws shall provide for:

- (1) The method of removal from office of directors; that at any regular or special meeting of the apartment owners, any one or more members of the board of directors may be removed by the apartment owners and successors shall then and there be elected for the remainder of the term to fill the vacancies thus created. [Such] The removal and replacement shall be in accordance with all applicable requirements and procedures in the bylaws for the removal and replacement of directors, including, but not limited to, any provisions relating to cumulative voting. If [such] removal and replacement is to occur at a special association meeting, the call for [such] the meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners as shown in the association’s record of ownership; and provided further that if the secretary or managing agent shall fail to send out the notices for the special meeting within fourteen days of receipt of the petition, then the petitioners shall have the authority to set the time, date, and place for the special meeting and to send out the notices for the special meeting in accordance with the requirements of the bylaws. Except as otherwise provided herein, [such] the meeting for the removal and replacement from office of directors shall be scheduled, noticed, and conducted in accordance with the bylaws of the association.
- (2) The bylaws may be amended at any time by the vote or written consent of sixty-five per cent of all apartment owners; provided that each one of the particulars set forth in this section shall be embodied in the bylaws always; and provided further that any proposed bylaws with the rationale for the proposal may be submitted by the board of directors or by a volunteer apartment owners’ committee. If submitted by that committee, it shall be accompanied by a petition signed by not less than twenty-five per cent of the apartment owners

as shown in the association's record of ownership. The proposed bylaws, rationale, and ballots for voting on any proposed bylaw shall be mailed by the board of directors to the owners at the expense of the association for vote or written consent without change within thirty days of the receipt of the petition by the board of directors. The vote or written consent required to adopt the proposed bylaw shall not be less than sixty-five per cent of all apartment owners; provided that the vote or written consent must be obtained within one hundred twenty days after mailing. In the event that the bylaw is duly adopted, then the board shall cause the bylaw amendment to be recorded in the bureau of conveyances or filed in the land court, as the case may be. The volunteer apartment owners' committee shall be precluded from submitting a petition for a proposed bylaw [which] that is substantially similar to that which has been previously mailed to the owners within one year after the original petition was submitted to the board. This subsection shall not preclude any apartment owner or voluntary apartment owners' committee from proposing any bylaw amendment at any annual association meeting.

- (3) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any.
- (4) No resident manager[,] or managing agent shall solicit, for use by the manager or managing agent, any proxies from any apartment owner of the association of owners [which] that employs the resident manager or managing agent, nor shall the resident manager or managing agent cast any proxy vote at any association meeting except for the purpose of establishing a quorum. No member of a board of directors who uses association funds to solicit proxies shall cast any of these proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors and the board first posts notice of its intent to solicit proxies in prominent locations within the project at least thirty days prior to its solicitation of proxies; provided that if the board receives within seven days of the posted notice a request by any owner for use of association funds to solicit proxies accompanied by a statement, the board shall[:.] mail to all owners either:
- (A) [Mail to all owners a] A proxy form containing [either] the names of all owners who have requested the use of association funds for soliciting proxies accompanied by their statements; or
- (B) [Mail to all owners a] A proxy form containing no names, but accompanied by a list of names of all owners who have requested the use of association funds for soliciting proxies and their statements.

The statement shall not exceed one hundred words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies.



- (5) A director who has a conflict of interest on any issue before the board shall disclose the nature of the conflict of interest prior to a vote on that issue at the board meeting, and the minutes of the meeting shall record the fact that a disclosure was made.
- (6) The apartment owners shall have the irrevocable right, to be exercised by the board of directors, to have access to each apartment from time to time during reasonable hours as may be necessary for the operation of the property or for making emergency repairs therein necessary to prevent damage to the common elements or to another apartment or apartments.
- (7) An owner shall not act as an officer of an association and an employee of the managing agent employed by the association.
- (8) An association's employees shall not engage in selling or renting apartments in the condominium in which they are employed except association-owned units, unless such activity is approved by an affirmative vote of sixty-five per cent of the membership.
- (9) The board of directors shall meet at least once a year. Whenever practicable, notice of all board meetings shall be posted by the resident manager or a member of the board in prominent locations within the project seventy-two hours prior to the meeting or simultaneously with notice to the board of directors.
- (10) Directors shall not expend association funds for their travel, directors' fees, and per diem, unless owners are informed and a majority approve of these expenses.
- (11) Associations at their own expense shall provide all board members with a current copy of the association's declaration, bylaws, house rules, and, annually, a copy of this chapter with amendments.
- (12) The directors may expend association funds, which shall not be deemed to be compensation to the directors, to educate and train themselves in subject areas directly related to their duties and responsibilities as directors; provided that the approved annual operating budget include these expenses as separate line items. These expenses may include registration fees, books, videos, tapes, other educational materials, and economy travel expenses. Except for economy travel expenses within the State, all other travel expenses incurred under this subsection shall be subject to the requirements of subsection 514A-82(b)(10).

The provisions of this subsection shall be deemed incorporated into the bylaws of all condominium projects existing as of January 1, 1988, and all condominium projects created after that date."

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

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

(Approved June 7, 1994.)

A Bill for an Act Relating to Mortgages of Real Property or Fixtures.

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

SECTION 1. Chapter<sup>1</sup> 506-8, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§506-8**~~]]~~ **Release of mortgages of real property or fixtures.** The mortgagee of real property or the record assignee of a mortgage interest shall provide to the mortgagor a release of mortgage upon full satisfaction of the mortgage and discharge of any secured debt [secured thereby]. The instrument shall be duly acknowledged, shall sufficiently describe the mortgage [which] that has been satisfied, and be recordable in the bureau of conveyances or office of the assistant registrar of the land court, or both, as appropriate. If the mortgagee or record assignee fails to provide a release of the mortgage as required by this section within sixty days from the date of a request made in writing by any party in interest, and sent by certified or registered mail to the mortgagee or record assignee at its last known address, [the] then:

(1) Any title insurer or underwritten title company as defined in section 431:20-102 may execute the release of mortgage on behalf of the mortgagee or record assignee; provided that:

(A) The release shall have attached to it an affidavit setting forth proof, such as a cancelled check or written confirmation from the mortgagee, that reasonably establishes that the mortgage debt has been discharged and the mortgage has been fully satisfied; and

(B) The release shall be executed by an officer of the title insurer or underwritten title company.

In the event that a mortgage is released by a title insurer or underwritten title company under the provisions of this section but the mortgage debt has not been discharged, the mortgage has not been fully satisfied, and the title insurer or underwritten title company acted with gross negligence or in bad faith in releasing the mortgage, the title insurer or underwritten title company releasing the mortgage shall be liable to the mortgagee for treble damages and reasonable attorneys' fees and costs; or

(2) The mortgagor or a company issuing title insurance to a new owner of the mortgaged subject real property or to another mortgagee of the subject real property, or the escrow company charged by the mortgagor with obtaining [such] the release of mortgage, or any other interested party [in interest], as plaintiff, may institute an action in any circuit court to obtain the release of mortgage[.]; provided that:

(A) The plaintiff in [such] the action shall mail a copy of the complaint to the mortgagee or record assignee by certified or registered mail addressed to the mortgagee or record assignee at its last known address[.];

(B) If the mortgagee or record assignee does not file an answer to the complaint within forty-five days after [such] the mailing, the court, upon receipt of an affidavit of mailing required by this section and upon satisfactory proof that the mortgage debt has been discharged and the mortgage has been fully satisfied, shall issue an order releasing the mortgage[, and this];

(C) This order shall be recorded in the bureau of conveyances or office of the assistant registrar of the land court, or both, as appropriate[.]; and

**ACT 79**

(D) Upon a finding of good cause by the court, the plaintiff shall be entitled to treble damages and reasonable attorneys' fees and costs incurred in [any such] the action unless the court finds that the mortgagee had a reasonable basis for believing that a dispute existed regarding whether the mortgage should have been released."

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

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

(Approved June 7, 1994.)

**Note**

1. So in original.

**ACT 79**

H.B. NO. 2490

A Bill for an Act Relating to Out-of-State Prescriptions.

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

SECTION 1. Section 328-17.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) Any pharmacist who fills or refills an out-of-state prescription shall:
  - (1) Note the following on the pharmacist’s prescription record: the out-of-state practitioner’s full name, address, telephone number, and DEA registration number; provided that the DEA registration number shall be required only for original fills[;] communicated via telephone or facsimile;
  - (2) Be responsible for validating the authenticity of the out-of-state practitioner’s DEA registration number; and
  - (3) Demand proper identification from the person whose name appears on the prescription prior to filling the prescription, in addition to complying with any identification procedures established by the department for filling and refilling an out-of-state prescription.”

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

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

(Approved June 7, 1994.)

**ACT 80**

H.B. NO. 2599

A Bill for an Act Relating to Telephone Service.

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

SECTION 1. The legislature finds that telephone service to rural areas of the state is often so inferior to service elsewhere that lives are put into jeopardy. Multi-line service and other cost-saving measures, often used in rural areas, put those in need of emergency service, often the elderly, at great risk. State policy dictates that all persons who request telephone service be provided with equal access to services, including single line service. With today's technological advances, there is no reason for any resident of Hawaii to be placed at risk because of inferior telephone service.

The purpose of this Act is to insure that telephone service providers meet the needs of every customer including those in currently underserved areas.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§269- Universal service subsidies.** (a) For any alternative telecommunications provider authorized to provide basic local exchange service to any area of the State pursuant to section 269-16.9(h), the commission may consider the following:

- (1) Transferring the subsidy, if any, of the local exchange provider's basic residential telephone service to the alternative provider; and
- (2) Transferring from the local exchange carrier to the alternative provider the amounts, if any, generated by the local exchange provider's services other than basic residential telephone service and which are used to subsidize basic residential service in the area.

(b) To receive the subsidy amounts from the local exchange service provider, the alternative telecommunications provider shall be required, to the extent possible, to obtain basic residential service subsidies from both the local exchange service provider and national universal service providers."

SECTION 3. Section 269-16.9, Hawaii Revised Statutes, is amended to read as follows:

**"[[§269-16.9]] Telecommunications providers and services.** (a) Notwithstanding any provision of this chapter to the contrary, the commission may, upon its own motion or upon the application of any person, and upon notice and hearing, exempt a telecommunications provider or a telecommunications service from any or all of the provisions of this chapter upon a determination that the exemption is in the public interest. In determining whether an exemption is in the public interest, the commission shall consider whether the exemption promotes state policies in telecommunications, the development, maintenance, and operation of effective and economically efficient telecommunications services, and the furnishing of telecommunications services at just and reasonable rates and in a fair manner in view of the needs of the various customer segments of the telecommunications industry. Among the specific factors the commission may consider are:

- (1) The responsiveness of the exemption to changes in the structure and technology of the State's telecommunications industry;
- (2) The benefits accruing to the customers and users of the exempt telecommunications provider or service;
- (3) The impact of the exemption on the quality, efficiency, and availability of telecommunications services;
- (4) The impact of the exemption on the maintenance of fair, just, and reasonable rates for telecommunications services;

- (5) The likelihood of prejudice or disadvantage to ratepayers of basic local exchange service resulting from the exemption;
- (6) The effect of the exemption on the preservation and promotion of affordable, universal, basic telecommunications services as those services are determined by the commission;
- (7) The resulting subsidization, if any, of the exempt telecommunications service or provider by nonexempt services;
- (8) The impact of the exemption on the availability of diversity in the supply of telecommunications services throughout the State;
- (9) The improvements in the regulatory system to be gained from the exemption, including the reduction in regulatory delays and costs;
- (10) The impact of the exemption on promoting innovations in telecommunications services;
- (11) The opportunity provided by the exemption for telecommunications providers to respond to competition; and
- (12) The potential for the exercise of substantial market power by the exempt provider or by a provider of the exempt telecommunications service.

(b) The commission shall expedite, where practicable, the regulatory process with respect to exemptions and shall adopt guidelines under which each provider of an exempted service shall be subject to similar terms and conditions.

(c) The commission may condition or limit any exemption as the commission deems necessary in the public interest. The commission may provide a trial period for any exemption and may terminate the exemption or continue it for such period and under such conditions and limitations as it deems appropriate.

(d) The commission may require a telecommunications provider to apply for a certificate of public convenience and necessity pursuant to section 269-7.5; provided that the commission may waive any application requirement whenever it deems the waiver to be in furtherance of the purposes of this section. The exemptions under this section may be granted in a proceeding for certification or in a separate proceeding.

(e) The commission may waive other regulatory requirements under this chapter applicable to telecommunications providers when it determines that competition will serve the same purpose as public interest regulation.

(f) If any provider of an exempt telecommunications service or any exempt telecommunications provider elects to terminate its service, it shall provide notice of this to its customers, the commission, and every telephone public utility providing basic local exchange service in this State. The notice shall be in writing and given not less than six months before the intended termination date. Upon termination of service by a provider of an exempt service or by an exempt provider, the appropriate telephone public utility providing basic local exchange service shall ensure that all customers affected by the termination receive basic local exchange service. The commission shall, upon notice and hearing or by rule, determine the party or parties who shall bear the cost, if any, of access to the basic local exchange service by the customers of the terminated exempt service.

(g) Upon the petition of any person or upon its own motion, the commission may rescind any exemption or waiver granted under this section if, after notice and hearing, it finds that the conditions prompting the granting of the exemption or waiver no longer apply, or that the exemption or waiver is no longer in the public interest, or that the telecommunications provider has failed to comply with one or more of the conditions of the exemption or applicable statutory or regulatory requirements.

(h) For purposes of this section, the commission, upon determination that any area of the State has less than adequate telecommunications service, shall require the existing telecommunications provider to show cause as to why the commission should not authorize an alternative telecommunications provider for that area under the terms and conditions of this section.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

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

(Approved June 7, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.

**ACT 81**

H.B. NO. 2622

A Bill for an Act Relating to Persons Dispossessed or Displaced by Volcanic Eruptions.

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

SECTION 1. Act 314, Session Laws of Hawaii 1991, as amended by Act 172, Session Laws of Hawaii 1993, is amended by amending section 5 to read as follows:

“SECTION 5. Notwithstanding any other law to the contrary, including chapter 171, Hawaii Revised Statutes, the department of land and natural resources is authorized to negotiate and enter into lease arrangements in accordance with the provisions and limitations of this Act; provided that the authority granted by this Act shall expire:

- (1) When leases have been negotiated and recorded in the bureau of conveyances for all parcels meeting the criteria in this Act; or
- (2) On December 31, [1994;] 1995;

whichever occurs first.”

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

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

(Approved June 7, 1994.)

**ACT 82**

S.B. NO. 2098

A Bill for an Act Relating to Act 364, Session Laws of Hawaii 1993.

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

SECTION 1. Section 18, Act 364, Session Laws of Hawaii 1993, is repealed.

ACT 83

[“SECTION 18. **Educational officer classification/compensation; review of statutes.** The legislative auditor shall review Chapter 297, Part III, Salaries and Classification, with particular emphasis on the role of the educational officers classification/compensation appeals board. The auditor shall submit a report to the legislature no later than twenty days prior to the convening of the 1994 regular session with recommendations on the inclusion, deletion, or amendment of current law. Beginning July 1, 1995, sections 297-31.2 through 297-31.5 shall be repealed unless reenacted or amended during the 1994 or 1995 regular session.”]

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved June 7, 1994.)

ACT 83

S.B. NO. 2366

A Bill for an Act Relating to Use Tax.

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

SECTION 1. The purpose of this Act is to reenact the substance of section 1 of Act 184, Session Laws of Hawaii 1992, retroactive to June 29, 1993.

SECTION 2. **Application of use tax law to oil pollution removal equipment.** The tax imposed by chapter 238, Hawaii Revised Statutes, shall not apply to any ocean-going vessels, barges, or other capital equipment imported into the State or sold to any nonprofit entity that is tax exempt pursuant to section 501(c)(4) of the Internal Revenue Code of 1986, as amended, which assists in the implementation of the national contingency plan or area contingency plan, and which is created in response to the requirements of Title IV, Subtitle B of the Oil Pollution Act of 1990, P.L. 101-3890 (33 U.S.C. §§95, 1321).

SECTION 3. This Act, upon its approval, shall take effect retroactive to June 29, 1993, and shall be repealed on July 1, 1994.

(Approved June 7, 1994.)

ACT 84

S.B. NO. 2563

A Bill for an Act Relating to Wages and Other Compensation.

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

SECTION 1. Section 388-10, Hawaii Revised Statutes, is amended to read as follows:

“**§388-10 Penalties.** (a) Civil. Any employer who fails to pay wages in accordance with this chapter without equitable justification shall be liable to the employee, in addition to the wages legally proven to be due, for a sum up to the amount of unpaid wages[.] and interest at a rate of six per cent per year from the

date the wages were due.

(b) Criminal. Any employer who does not pay the wages of any of the employer's employees in accordance with this chapter, or any officer of any corporation who knowingly permits the corporation to violate this chapter by failing to pay wages of any of its employees in accordance with this chapter, or any employer or the employer's agent or any officer or agent of a corporation who discharges or in any other manner discriminates against any employee because the employee has made a complaint to the employee's employer, or to the director, or to any other person that the employee has not been paid wages in accordance with this chapter, or has instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceedings, or any employer who wilfully fails to comply with any other requirements of this chapter shall be [guilty of a misdemeanor and, upon conviction thereof, shall be] fined not less than \$100 nor more than \$10,000 or imprisoned for not more than one year, or punished by both fine and imprisonment for each such offense."

SECTION 2. Section 388-11, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The court in any action brought under this section shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow interest of six per cent per year from the date the wages were due, costs of action, including costs of fees of any nature, and reasonable attorney's fees, to be paid by the defendant. The director shall not be required to pay the filing fee or other costs or fees of any nature or to file a bond or other security of any nature in connection with such action or with proceedings supplementary thereto, or as a condition precedent to the availability to the director of any process in aid of such action or proceedings. The director may join various claimants in one preferred claim or lien, and in case of suit join them in one cause of action."

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

SECTION 4. This Act shall take effect on July 1, 1994.

(Approved June 7, 1994.)

## ACT 85

S.B. NO. 2591

A Bill for an Act Relating to Tax Credits.

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

SECTION 1. The legislature finds that Article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide a tax refund or tax credit when certain factors are met. The legislature finds that these factors have been met for the thirteenth year in a row and that the legislature is constitutionally required to give a tax credit or refund.

The purpose of this Act is to provide for an income tax credit of \$1 to the people of the State to satisfy constitutionally mandated requirements.



SECTION 2. (a) In addition to the food/excise tax credit allowed under section 235-55.8, Hawaii Revised Statutes, and in addition to any other credit allowed under chapter 235, Hawaii Revised Statutes, there shall be allowed each resident individual taxpayer who qualifies under section 235-55.8(a), Hawaii Revised Statutes, a general income tax credit of \$1 which shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes. The general income tax credit of \$1 shall be multiplied by the number of qualified exemptions as defined in section 235-55.8(c), Hawaii Revised Statutes, to which the taxpayer is entitled, regardless of adjusted gross income. Section 235-55.8(c), Hawaii Revised Statutes, to the contrary notwithstanding, each person for whom the qualified exemption is claimed shall have been a resident of the State, as defined in section 235-1, Hawaii Revised Statutes, for at least nine months regardless of whether the qualified resident was physically in the State for nine months. For the purposes of this section, multiple exemptions shall not be granted for this credit because of age or deficiencies in vision, hearing, or other disability. The general income tax credit allowed under this section shall be deducted from income tax liability for the taxable year 1994. Section 235-55.8(d), (e), and (f), Hawaii Revised Statutes, applies to this section and is incorporated herein to the extent not in conflict with this section.

(b) This section implements the provisions of Article VII, section 6, of the Constitution of the State of Hawaii, enacted by the 1978 Constitutional Convention, which reads as follows:

**“DISPOSITION OF EXCESS REVENUES**

**Section 6.** Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law.”

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

(Approved June 7, 1994.)

A Bill for an Act Relating to Disaster Relief and Rehabilitation.

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

SECTION 1. Section 209-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Whenever the governor declares a state disaster for the entire State or any portion thereof, or when the State, or any portion thereof, is the subject of a severe weather warning:

- (1) There shall be prohibited any increase in the selling price of any commodity, whether at the retail or wholesale level, in the area that is the subject of the disaster declaration or the severe weather warning; and
- (2) No landlord shall terminate any tenancy for a residential dwelling

unit in the area that is the subject of a disaster declaration or a severe weather warning, except for a breach of a material term of a rental agreement or lease, or if the unit is [deemed to be structurally unsafe.] unfit for occupancy as defined in this chapter, provided that:

- (A) Nothing in this chapter shall be construed to extend a fixed term lease beyond its termination date, except that a periodic tenancy for a residential dwelling unit may be terminated by the landlord upon forty-five days written notice:
- (i) When the residential dwelling unit is sold to a bona fide purchaser for value; or
  - (ii) When the landlord or an immediate family member of the landlord will occupy the residential dwelling unit; or
- (B) Under a fixed term lease or a periodic tenancy, upon forty-five days written notice, a landlord may require a tenant or tenants to relocate during the actual and continuous period of any repair to render a residential dwelling unit fit for occupancy provided that:
- (i) Reoccupancy shall first be offered to the same tenant or tenants upon completion of the repair; and
  - (ii) The term of the fixed term lease or periodic tenancy shall be extended by a period of time equal to the duration of the repair; and
  - (iii) It shall be the responsibility of the tenant or tenants to find other accommodations during the period of repair.

As used in this section, "breach of a material term" means the failure of a party to perform an obligation under the rental agreement which constitutes the consideration for entering into the contract and includes the failure to make a timely payment of rent. For the purpose of this subsection:

"Fixed term lease" means a lease for real property that specifies its beginning date and its termination date as calendar dates, or contains a formula for determining the beginning and termination dates; and the application of the formula as of the date of the agreement will produce a calendar date for the beginning and termination of the lease.

"Periodic tenancy" means a tenancy wherein real property is leased for an indefinite time with monthly or other periodic rent reserved. A periodic tenancy may be created by express agreement of the parties, or by implication upon the expiration of a fixed term lease when neither landlord nor tenant provides the other with written notice of termination and the tenant retains possession of the premises for any period of time after the expiration of the original term.

"Unfit for occupancy" means that a residential dwelling unit has been damaged to the extent that the appropriate county agency determines that the unit creates a dangerous or unsanitary situation and is dangerous to the occupants or to the neighborhood."

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

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

(Approved June 7, 1994.)

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

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

SECTION 1. Chapter 305, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§305- Community college conference center revolving fund. There is established a revolving fund for conference center programs conducted by the various community colleges. All fees, charges, and other moneys collected in conjunction with the conference center programs of each community college shall be deposited in separate accounts within the revolving fund. The provost of each college or a designee is authorized to expend moneys from the appropriate account in the revolving fund for any cost related to the conducting of conferences, seminars, or courses sponsored by their campuses. Allowable expenditures from the revolving fund shall include but not be limited to honoraria, hotel and room rentals, food and refreshment, printing and mailing, air fare and per diem, leis, rental of audio-visual equipment, and other supplies and equipment that may be necessary for conference or seminar purposes, without regard to section 103-42 and any competitive bidding requirements pursuant to state procurement requirements.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 7, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Civil Rights.

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

SECTION 1. Section 378-2, Hawaii Revised Statutes, is amended to read as follows:

“§378-2 Discriminatory practices made unlawful; offenses defined. It shall be an unlawful discriminatory practice:

- (1) Because of race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, or arrest and court record:
  - (A) For any employer to refuse to hire or employ or to bar or discharge from employment, or otherwise to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment;
  - (B) For any employment agency to fail or refuse to refer for employment, or to classify or otherwise to discriminate against, any individual;

- (C) 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;
  - (D) For any labor organization to exclude or expel from its membership any individual or to discriminate in any way against any of its members, employer, or employees; or
  - (E) For any employer or labor organization to refuse to enter into an apprenticeship agreement as defined in section 372-2; provided that no apprentice shall be less than sixteen years of age;
- (2) For any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any individual because the individual has opposed any practice forbidden by this part or has filed a complaint, testified, or assisted in any proceeding respecting the discriminatory practices prohibited under this part;
  - (3) For any person whether an employer, employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the discriminatory practices forbidden by this part, or to attempt to do so;
  - (4) For any employer to violate the provisions of section 121-43 relating to nonforfeiture for absence by members of the national guard; [or]
  - (5) For any employer to refuse to hire or employ or to bar or discharge from employment, any individual because of assignment of income for the purpose of satisfying the individual's child support obligations as provided for under section 571-52[.]; or
  - (6) For any employer, labor organization, or employment agency to exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association.

SECTION 2. Section 378-3, Hawaii Revised Statutes, is amended to read as follows:

**“§378-3 Exceptions.** Nothing in this part shall be deemed to:

- (1) Repeal or affect any law, ordinance, or government rule having the force and effect of law;
- (2) Prohibit or prevent the establishment and maintenance of bona fide occupational qualifications reasonably necessary to the normal operation of a particular business or enterprise, and that have a substantial relationship to the functions and responsibilities of prospective or continued employment;
- (3) Prohibit or prevent an employer, employment agency, or labor organization from refusing to hire, refer, or discharge any individual for reasons relating to the ability of the individual to perform the work in question;
- (4) Affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan that is not intended to evade the purpose of this chapter; provided that this exception shall not be construed to permit any employee plan to set a maximum age requirement for hiring or a mandatory retirement age;

- (5) Prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, that is operated, supervised, or controlled by or in connection with a religious organization, from giving preference to individuals of the same religion or denomination or from making a selection calculated to promote the religious principles for which the organization is established or maintained;
- (6) Conflict with or affect the application of security regulations or rules in employment established by the United States or the State;
- (7) Require the employer to execute unreasonable structural changes or expensive equipment alterations to accommodate the employment of a person with a disability;
- (8) Prohibit or prevent the department of education or private schools from considering criminal convictions in determining whether a prospective employee is suited to working in close proximity to children;
- (9) Prohibit or prevent any financial institution in which deposits are insured by a federal agency having jurisdiction over the financial institution from denying employment to or discharging from employment any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, unless it has the prior written consent of the federal agency having jurisdiction over the financial institution to hire or retain the person; [or]
- (10) Preclude any employee from bringing a civil action for sexual harassment or sexual assault and infliction of emotional distress or invasion of privacy related thereto; provided that notwithstanding section 368-12, the commission shall issue a right to sue on a complaint filed with the commission if it determines that a civil action alleging similar facts has been filed in circuit court[.]; or
- (11) Require the employer to accommodate the needs of a nondisabled person associated with or related to a person with a disability in any way not required by Title I of the Americans with Disabilities Act.

SECTION 3. Section 489-5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§489-5**~~]]~~ **Other discriminatory practices.** (a) It is a discriminatory practice for two or more persons to conspire:

- (1) To retaliate or discriminate against a person because the person has opposed an unfair discriminatory practice;
- (2) To aid, abet, incite, or coerce a person to engage in a discriminatory practice; or
- (3) Wilfully, to obstruct, or prevent, a person from complying with this chapter.

(b) It is a discriminatory practice to deny a person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodations because of the known disability of an individual with whom the person is known to have a relationship or association.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

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

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

(Approved June 7, 1994.)

## ACT 89

S.B. NO. 2653

A Bill for an Act Relating to Liquor Tax Law.

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

SECTION 1. Section 244D-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every person who sells or uses any liquor not taxable under this chapter, in respect of the transaction by which [such] the person or the person’s vendor acquired [such] the liquor, shall pay a gallonage tax which is hereby imposed at the following rates for the various liquor categories defined in section 244D-1:

- (1) \$5.20 per wine gallon on distilled spirits;
- (2) \$2.00 per wine gallon on sparkling wine;
- (3) \$1.30 per wine gallon on still wine;
- (4) \$.81 per wine gallon on cooler beverages;
- (5) \$.81 per wine gallon on beer other than draft beer;
- (6) \$.50 per wine gallon on draft beer;

For the period July 1, 1995, to June 30, 1996, the tax rate shall be:

- (1) \$5.81 per wine gallon on distilled spirits;
- (2) \$2.03 per wine gallon on sparkling wine;
- (3) \$1.32 per wine gallon on still wine;
- (4) \$0.82 per wine gallon on cooler beverages;
- (5) \$0.90 per wine gallon on beer other than draft beer;
- (6) \$0.51 per wine gallon on draft beer;

For the period July 1, 1996, to June 30, 1997, the tax rate shall be:

- (1) \$5.87 per wine gallon on distilled spirits;
- (2) \$2.06 per wine gallon on sparkling wine;
- (3) \$1.34 per wine gallon on still wine;
- (4) \$0.83 per wine gallon on cooler beverages;
- (5) \$0.91 per wine gallon on beer other than draft beer;
- (6) \$0.52 per wine gallon on draft beer;

For the period July 1, 1997, to June 30, 1998, the tax rate shall be:

- (1) \$5.92 per wine gallon on distilled spirits;
- (2) \$2.09 per wine gallon on sparkling wine;
- (3) \$1.36 per wine gallon on still wine;
- (4) \$0.84 per wine gallon on cooler beverages;
- (5) \$0.92 per wine gallon on beer other than draft beer;
- (6) \$0.53 per wine gallon on draft beer;

On July 1, 1998, and thereafter, the tax rate shall be:

- (1) \$5.98 per wine gallon on distilled spirits;
- (2) \$2.12 per wine gallon on sparkling wine;

ACT 90

- (3) \$1.38 per wine gallon on still wine;
- (4) \$0.85 per wine gallon on cooler beverages;
- (5) \$0.93 per wine gallon on beer other than draft beer;
- (6) \$0.54 per wine gallon on draft beer;

and at a proportionate rate for any other quantity so sold or used.”

SECTION 2. Section 244D-4.5, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1994.

(Approved June 7, 1994.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

ACT 90

S.B. NO. 2663

A Bill for an Act Relating to Liability.

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

SECTION 1. The purpose of this Act is to clarify the liability of hotels with regard to certain beach and ocean injuries and to provide that no person other than hotel guests who may be engaged in such activities shall recover from a hotel for injuries resulting from those dangers and risk.

SECTION 2. Chapter 486K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§486K- Hotelkeeper’s liability limited for certain beach and ocean activities.** In a claim alleging injury or loss on account of a hazardous condition on a beach or in the ocean, a hotelkeeper shall be liable to a hotel guest for damages for personal injury, death, property damage, or other loss resulting from the hotel guest going onto the beach or into the ocean for a recreational purpose, including wading, swimming, surfing, body surfing, boogie boarding, diving, or snorkeling, only when such loss or injury is caused by the hotelkeeper’s failure to warn against a hazardous condition on a beach or in the ocean, known, or which should have been known to a reasonably prudent hotelkeeper, and when the hazardous condition is not known to the guest or would not have been known to a reasonably prudent guest. A hotelkeeper owes no duty and shall have no liability for conditions which were not created by the hotel to a person who is not a guest of the hotel for injury or damage resulting from any beach or ocean activity.

As used in this section, “beach” means the beach fronting the hotel, and “hotel guest” means a guest of that particular hotel and other persons occupying the assigned rooms.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

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

(Approved June 7, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 91**

S.B. NO. 2722

A Bill for an Act Relating to Time Shares.

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

SECTION 1. Section 514E-10, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Any plan manager or developer registration required in this section shall be renewed [on] by December 31 of each [odd-numbered year;] even-numbered year, and any acquisition agent, sales agent, or exchange agent registration required in this section shall be renewed on December 31 of each odd-numbered year; provided that this subsection shall not relieve the person required to register from the obligation to notify the director promptly of any material change in any information submitted to the director, nor shall it relieve the developer of its obligation [promptly] to promptly file amendments or supplements to the disclosure statement, and to promptly supply the [same] amendments or supplements to purchasers of time share interests.”

SECTION 2. Section 514E-10.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§514E-10.5]]~~ **Consultant review of developer filing.** The director may contract with private consultants in connection with the review of the filing required of time share developers pursuant to section 514E-10(a)[, the] and (f). The cost of [which] contracting private consultants shall be borne by the developer; provided that the consultant review required under this section shall not affect the scope of the review under section 514E-27 [which] that the director may request for filings [which] that encompass alternative arrangements for purchaser protection. The consultant shall be asked to thoroughly review the filing for the purpose of examining its compliance with the requirements of this chapter and any rule adopted by the director, including the documentation and other provided materials [provided in connection therewith]. Upon completing the review, the consultant shall provide a written analysis of the filing and an opinion of the nature and extent to which it complies with this chapter and [the] adopted rules [adopted pursuant thereto]. The director may adopt rules pursuant to chapter 91 to further delineate the duties of the consultant in undertaking the review and analysis required [under] pursuant to this section.”

SECTION 3. Section 514E-11, Hawaii Revised Statutes, is amended to read as follows:

“**§514E-11 Prohibited practices.** It is a violation of this chapter for any



sales agent or acquisition agent of time share units or plans to:

- (1) Fail to comply with the disclosure requirements set forth in section 514E-9 or any rule adopted pursuant thereto;
- (2) Use any promotional device, including but not limited to entertainment, prizes, gifts, food and drinks, games, transportation, luaus, ocean recreational activities, land recreational activities, aerial recreational activities, or tours, or other inducements, or make any offer thereof, without fully disclosing orally and as provided in paragraph (3) that the device is being used or offered for the purpose of soliciting sales of time share units or interests;
- (3) Offer a prospective purchaser a prize or gift as part of any time share advertising or sales promotion plan, if in order to claim the prize, the prospective purchaser must attend and complete a sales presentation, unless written disclosure is furnished to the prospective purchaser at the time the prospective purchaser is notified of the prize or gift; provided that the written disclosure is written or printed in a size equal to at least ten-point bold type and contains all of the following:
  - (A) A full description of the exact prize or gift won by the prospective purchaser including its cash value;
  - (B) All terms and conditions attached to the prize or gift;
  - (C) A statement that the consumer must attend and complete a sales presentation; and
  - (D) An identification of the time share project to be offered for sale including type of ownership, exchange privileges, limitations, and price ranges of the time share interests in that project;
- (4) Misrepresent or deceptively represent any material fact concerning the time share plan or time share unit;
- (5) Make any representation that a time share interest is an investment, including but not limited to the value of the interest at resale;
- (6) Fail to honor and comply with all provisions of a contract or reservation agreement with the purchaser;
- (7) Include, in any contract or reservation agreement, provisions purporting to waive any right or benefit provided for purchasers pursuant to this chapter;
- (8) Receive from any prospective purchaser any money, property (including but not limited to a credit card), or other valuable consideration prior to signing a contract or reservation agreement for the purchase of a time share plan or unit;
- (9) Make any agreement or contract with a purchaser before delivering, furnishing, or tendering to that prospective purchaser any promised promotional device or other instrument;
- (10) Distribute any promotional or disclosure material separately if the material was filed in a consolidated form;
- (11) Use any unregistered time share booth or fail to have displayed at least one conspicuous, clear, and unobstructed sign [posted on or in a time share booth in a location reasonably calculated to bring the sign to the attention of customers outside of such time share booth that states, at minimum, "TIME SHARE", and] of a permanent nature which is upright and perpendicular to the ground, easily

visible to passersby at eye-level, five feet from the floor of the booth, and of minimum dimensions of twelve inches by eighteen inches, stating in capital, block-style letters of at least one inch tall the name of the resort with which the booth is affiliated and for which the offer is intended, and prominently displaying the words "TIME SHARE," in a manner consistent with department[, city] rules and county ordinances[;]. As used in this paragraph, "sign of a permanent nature" specifically excludes banners, grease boards, marker boards, handwritten signs, or signs constructed of temporary materials such as paper, poster board, or cardboard;

- (12) Misrepresent the amount of fees to be charged, including management fees, or the structure for future fee increase; or
- (13) Sell, offer for sale, or advertise for sale, by any person, partnership, firm, corporation, joint stock company, or other association engaged in marketing time share plans within the State, any tourist activity, including, but not limited to land, aerial, or water recreational activities, at less than the cost thereof to such vendor or give, offer to give, or advertise with the intent to give away any such tourist activity with the purpose or effect of inducing the vendee to purchase a time share plan or to attend a time share marketing event.

Any violation of this section shall also constitute an unlawful or deceptive practice within the meaning of section 480-2."

SECTION 4. Section 514E-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) For any cause authorized by law, including but not limited to a determination by the director that any person has violated any provision of this chapter or any rule adopted by the director pursuant to this chapter, or that a person has authorized, directed, ordered, or personally participated in any violation of this chapter or any rule adopted by the director pursuant to this chapter, in addition to any other actions authorized by law, the director:

- (1) May fine the person a sum of not less than \$500 nor more than [\$10,000] \$25,000 for each separate offense; provided that each date of violation shall constitute a separate offense; and
- (2) May issue an order suspending or revoking the registration of the person and the right of the person to offer or sell time share interests or otherwise engage in time share activities."

SECTION 5. No renewal of plan manager or developer registrations shall be required in 1994. The registration or renewal of authorizing a plan manager or developer to conduct time share business during the period beginning on January 1, 1994, and ending on December 31, 1995, shall be extended to December 31, 1996.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 7, 1994.)

A Bill for an Act Relating to the Labor Relations Appeals Board.

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

SECTION 1. Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

“§103-3 **Employment of attorneys.** No department of the State, other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the housing finance and development corporation, [or] the public utilities commission[;], or the labor and industrial relations appeals board;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund, the contractors license board in any action involving the contractors recovery fund, and the trustees in any action involving the travel agency recovery fund;
- (6) To grand jury counsel;
- (7) To the office of Hawaiian affairs;
- (8) To the department of commerce and consumer affairs; provided that its attorney shall be responsible for the prosecution of consumer complaints;
- (9) To the employees retirement system;
- (10) To the Hawaiian home lands trust individual claims review panel; or
- (11) In the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines representation or counsel, or approves a department's expenditures; provided that the governor thereupon waives the provision of this section.

For the purpose of this section the term “department of the State” means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed as a grand jury counsel, the department of commerce and consumer affairs in prosecution of consumer complaints, or the Hawaiian home lands trust individual claims review panel, shall become a deputy attorney general.”

SECTION 2. Section 371-4, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) [The chairman of the board shall employ employees as may be required to carry out the board's duties, shall assign the work of the board to the members thereof and its employees and shall serve as administrative officer of the board. Employees of the board, other than clerical and stenographic employees, shall be exempt from chapters 76 and 77.] The chairperson of the appeal board shall be responsible for the administrative functions of the appeal board.

The appeal board may:

- (1) Appoint an executive officer and employ other employees as it deems necessary in the performance of its functions;
- (2) Set the duties and compensation of the executive officer and employees; and
- (3) Provide for the reimbursement of actual and necessary expenses incurred by the executive officer and employees in the performance of their duties, within the amounts made available by appropriations therefor.

Members of the appeal board and employees other than clerical and stenographic employees shall be exempt from chapters 76, 77, and 89. Clerical and stenographic employees shall be employed in accordance with chapters 76 and 77."

SECTION 3. Act 8, Special Session Laws of Hawaii 1993, is amended by amending subsection (b) of section -209 of the chapter established in section 2 of the Act to read as follows:

"(b) No department of the State, other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the housing finance and development corporation, [or] the public utilities commission[;], or the labor and industrial relations appeals board;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund, the contractors license board in any action involving the contractors recovery fund, and the trustees in any action involving the travel agency recovery fund;
- (6) To grand jury counsel;
- (7) To the office of Hawaiian affairs;
- (8) To the department of commerce and consumer affairs; provided that its attorney shall be responsible for the prosecution of consumer complaints;
- (9) To the employees retirement system;
- (10) To the Hawaiian home lands trust individual claims review panel; or
- (11) In the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines representation or counsel, or approves a department's expenditures; provided that the governor thereupon waives the provision of this section.

For the purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed as a grand jury counsel, the department of commerce and consumer affairs in prosecution of consumer complaints, or the Hawaiian home lands trust individual claims review panel, shall become a deputy attorney general."

ACT 93

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

SECTION 5. This Act shall take effect upon its approval; provided that section 3 shall take effect on July 1, 1994.

(Approved June 7, 1994.)

ACT 93

S.B. NO. 2781

A Bill for an Act Relating to Exemption of Additional Law Clerks from Civil Service.

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

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

“**§76-16 Civil service and exemptions.** The civil service to which this part applies [comprises] shall comprise all positions in the State now existing or hereafter established and [embraces] embrace all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard that are required by state or federal laws or regulations or orders of the national guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the position does not exceed one year, but before any person may be employed to render the temporary service, the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section

606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, and one law clerk for each judge of the circuit court, one additional law clerk for the civil administrative judge of the circuit court of the first circuit, one additional law clerk for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the family court administrative judge of the family court of the fifth circuit, one additional law clerk for the civil motions judge of the circuit court of the first circuit, one additional law clerk for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);

- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, the special assistant to the state librarian, one secretary for the special assistant to the state librarian, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor;
- (13) Positions filled by inmates, kokuas, patients of state institutions, persons with severe physical or mental handicaps participating in the work experience training programs, and students and positions filled through federally funded programs [which] that provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
- (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piece-work basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution[; four];

- (A) Four additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; [one]
  - (B) Six additional [deputy] deputies in the department of health as follows:
    - (i) One to administer all hospitals within the jurisdiction of the department of health; [one additional deputy in the department of health]
    - (ii) One to administer all environmental health programs within the jurisdiction of the department[; one] of health; and
    - (iii) Four in charge of administration or other functions within the department of health as may be assigned by the director of health with the approval of the governor;
  - (C) One additional deputy in the department of human services either in charge of welfare or other functions within the department as may be assigned by the director of human services; [four additional deputies in the department of health in charge of administration or other functions within the department as may be assigned by the director of health with the approval of the governor; one].
  - (D) Two additional [deputy] deputies in the department of business, economic development, and tourism as follows:
    - (i) One to perform the duties assigned by the director of business, economic development, and tourism and approved by the governor; [one additional deputy in the department of business, economic development, and tourism] and
    - (ii) One in charge of the office of tourism and other tourism-related activities as may be assigned by the director of business, economic development, and tourism, with the approval of the governor; [one]
  - (E) One additional deputy in the department of budget and finance to perform the duties assigned by the director of finance and approved by the governor; [one]
  - (F) One additional deputy within the department of land and natural resources to perform the duties to be assigned by the chairperson of the board of land and natural resources; [one]
  - (G) One additional deputy in the department of taxation to perform the duties assigned by the director of taxation and approved by the governor; and [an]
  - (H) An administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
  - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
  - (19) Household employees at the official residence of the president of the University of Hawaii;

- (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that not more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii [which] that require hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) One public high school student to be selected by the Hawaii state student council as a nonvoting member on the board of education as authorized by the State Constitution;
- (25) Sheriff, first deputy sheriff, and second deputy sheriff; and
- (26) A gender and other fairness coordinator hired by the judiciary.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

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

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

(Approved June 7, 1994.)

**ACT 94**

S.B. NO. 2787

A Bill for an Act Relating to Highway Safety.

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

SECTION 1. Section 286-128, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established a point system for the evaluation of the operating records of all persons operating motor vehicles and for the determination of the continuing qualifications of such persons to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations of the traffic laws of the State and of traffic ordinances of its counties to be imposed by the district judge in accordance with the following schedule of minimum and maximum points:

- (1) Driving while under the influence of intoxicating liquor ... 4 to 8
- (2) Reckless driving..... 3 to 6
- (3) Driving while license suspended or revoked (includes court conviction as well as safety responsibility violations)..... 3 to 6
- (4) Fraudulent use of license ..... 3 to 6



(5)	Excessive speeding (fifteen miles or more over the established speed limit).....	3 to 6
(6)	Leaving scene of accident.....	3 to 6
(7)	Speeding (ten miles or more over the established speed limit) .....	1 to 4
(8)	Failure to report accident immediately .....	1 to 4
[(9)]	Driving on left side of roadway .....	0 to 4]
[(10)]	(9) Inattention to driving; negligent driving .....	1 to 4
[(11)]	(10) Permitting unlicensed driver to drive .....	1 to 4
[(12)]	Following too closely.....	1 to 3
(13)	Disregarding stop signs.....	1 to 3
(14)	Right of way violations.....	0 to 3
(15)	Disregarding traffic control signals .....	1 to 3
(16)	Unlawful passing .....	0 to 3
(17)	Unsafe changing of lanes .....	0 to 3
(18)	Crossing solid or double lines.....	0 to 3
(19)	Impeding traffic .....	0 to 2
(20)	Improper turning .....	0 to 2
(21)	Unsafe emergence from parked position .....	0 to 2
(22)	Disregarding pavement markings .....	0 to 2
(23)	Unsafe movements.....	0 to 2
(24)	Stopping at medial openings.....	1 to 2
(25)	Improper emergence from private driveway.....	1 to 2
(26)	Unattended motor vehicle (if motor running).....	1 to 2
(27)	Violation of pedestrian's right of way .....	1 to 2
(28)	Unsafe equipment on vehicle.....	0 to 2
(29)	Faulty brakes.....	0 to 2
(30)	Driving with improper lights .....	0 to 2
(31)	Operating or carrying a passenger on a motor scooter or motorcycle without safety helmet or, in absence of windshield or windshield, without eye and face protective devices or other protective devices required by the state director of transportation .....	0 to 2
(32)	Driving after failure to renew license .....	0 to 2
(33)	Operating a motorcycle or motor scooter while carrying as a passenger or permitting to ride thereon a person under the age of seven years.....	0 to 2
(34)	Failure to report to the district court for review of driving record or failure to attend required driving retraining course.....	0 to 2]”

SECTION 2. Section 286-128, Hawaii Revised Statutes, is amended by amending subsection (l) to read as follows:

“(l) Any provision in this section to the contrary notwithstanding, in the case where the violation of [the following items under] subsection [(a) above are] (a)(8) is due to the size or nature of the vehicle, or the necessity of the driver’s following a specific route or schedule in the course of the driver’s employment, and not to inattention or fault on the part of the driver, the court shall assess no points[: items (8), (13), (15), (16), (17), (18), (19), (20), (21), and (22)].”

SECTION 3. This Act does not affect rights and duties that matured,

penalties that were incurred, and proceedings that were begun, before its effective date.

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

SECTION 5. This Act shall take effect on January 1, 1995.

(Approved June 7, 1994.)

## ACT 95

S.B. NO. 2829

A Bill for an Act Relating to Elections.

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

SECTION 1. Section 11-132, Hawaii Revised Statutes, is amended to read as follows:

“**§11-132 [One thousand] Two hundred foot radius; admission within polling place.** (a) The precinct officials shall post in a conspicuous place, prior to the opening of the polls, a map designating an area of [one thousand] two hundred feet [in radius around] from the perimeter of the polling place[.] and its appurtenances. Any person who remains or loiters within an area of [one thousand] two hundred feet [in radius around] from the perimeter of the polling place and its appurtenances for the purpose of campaigning shall be guilty of a misdemeanor. For the purposes of this section, a polling place and its appurtenances shall include:

- (1) The building in which the polling place is located;
- (2) Any parking lot adjacent to the building and routinely used for parking at that building;
- (3) The routes of access between the building and any parking lot; and
- (4) Any route of access between any public thoroughfare (right of way) and the polling place to ensure an open and accessible ingress and egress to and from the polling place for voters.

(b) The chief election officer may regulate other activities within the area specified in subsection (a) pursuant to rules adopted by the chief election officer under chapter 91 in order to ensure the safe and orderly conduct of elections.

[(b)] (c) Admission within the polling place shall be limited to the following:

- (1) Election officials;
- (2) Watchers, if any, pursuant to section 11-77;
- (3) Candidates;
- (4) Any voters actually engaged in voting, going to vote or returning from voting;
- (5) Any person, designated by a voter who is physically disabled, while the person is assisting the voter;
- (6) Any person or nonvoter group authorized by the chief election officer or the clerk in county elections to observe the election at designated precincts for educational purposes provided that they conduct themselves so that they do not interfere with the election process; and

ACT 96

- (7) A child for the purpose of observing the voting process when accompanied by an adult who is voting provided that this activity does not disrupt or interfere with normal voting procedures.

(d) Within the appropriate boundary as established in subsection (a), and the building in which the polling place is located, the display or distribution of campaign posters, signs, or other campaign materials for the purpose of soliciting votes for or against any person or political party or position on a question is prohibited. Any voter who displays campaign material in the polling place shall remove or cover that material before entering the polling place. The chief election officer may adopt rules pursuant to chapter 91 to address special circumstances regarding the display of campaign materials."

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

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

(Approved June 7, 1994.)

ACT 96

H.B. NO. 2631

A Bill for an Act Relating to Energy.

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

SECTION 1. The legislature finds that Hawaii's energy resources and physical environment must be managed and protected in a manner that ensures the health, safety, and welfare of the citizens of the State and preserves our limited natural resources for future generations. The 1993 energy and environmental summit was convened by the legislature on October 8, 1993, to identify issues and build broad-based support for initiatives that will move Hawaii forward in the areas of energy and the environment. This Act is the result of the collaborative efforts of participants of the summit.

SECTION 2. Chapter 226, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§226- Objectives and policies for facility systems—telecommunications.** (a) Planning for the State's telecommunications facility systems shall be directed towards the achievement of dependable, efficient, and economical statewide telecommunications systems capable of supporting the needs of the people.

(b) To achieve the telecommunications objective, it shall be the policy of this State to ensure the provision of adequate, reasonably priced, and dependable telecommunications services to accommodate demand.

(c) To further achieve the telecommunications objective, it shall be the policy of this State to:

- (1) Facilitate research and development of telecommunications systems and resources;
- (2) Encourage public and private sector efforts to develop means for adequate, ongoing telecommunications planning;

- (3) Promote efficient management and use of existing telecommunications systems and services; and
- (4) Facilitate the development of education and training of telecommunications personnel.”

SECTION 3. Section 226-17, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) To achieve the transportation objectives, it shall be the policy of this State to:

- (1) Design, program, and develop a multi-modal system in conformance with desired growth and physical development as stated in this chapter[.];
- (2) Coordinate state, county, federal, and private transportation activities and programs toward the achievement of statewide objectives[.];
- (3) Encourage a reasonable distribution of financial responsibilities for transportation among participating governmental and private parties[.];
- (4) Provide for improved accessibility to shipping, docking, and storage facilities[.];
- (5) Promote a reasonable level and variety of mass transportation services that adequately meet statewide and community needs[.];
- (6) Encourage transportation systems that serve to accommodate present and future development needs of communities[.];
- (7) Encourage a variety of carriers to offer increased opportunities and advantages to interisland movement of people and goods[.];
- (8) Increase the capacities of airport and harbor systems and support facilities to effectively accommodate transshipment and storage needs[.];
- (9) Encourage the development of transportation systems and programs which would assist statewide economic growth and diversification[.];
- (10) Encourage the design and development of transportation systems sensitive to the needs of affected communities and the quality of Hawaii’s natural environment[.];
- (11) Encourage safe and convenient use of low-cost, energy-efficient, non-polluting means of transportation[.];
- (12) Coordinate intergovernmental land use and transportation planning activities to ensure the timely delivery of supporting transportation infrastructure in order to accommodate planned growth objectives[.]; and
- (13) Encourage diversification of transportation modes and infrastructure to promote alternate fuels and energy efficiency.”

SECTION 4. Section 226-18, Hawaii Revised Statutes, is amended to read as follows:

“§226-18 Objectives and policies for facility systems—energy[/telecommunications]. (a) Planning for the State’s facility systems with regard to energy[/telecommunication] shall be directed towards the achievement of the following objectives:

- (1) Dependable, efficient, and economical statewide energy [and telecommunication] systems capable of supporting the needs of the people[.];

- (2) Increased energy self-sufficiency[.] where the ratio of indigenous to imported energy use is increased; and
- (3) Greater energy security in the face of threats to Hawaii's energy supplies and systems.

(b) To achieve the energy[telecommunication] objectives, it shall be the policy of this State to ensure the provision of adequate, reasonably priced, and dependable [power and telecommunication] energy services to accommodate demand.

(c) To further achieve the energy objectives, it shall be the policy of this State to:

- (1) Support research and development as well as promote the use of renewable energy sources;
- (2) Ensure [a sufficient supply of energy to enable power systems] that the combination of energy supplies and energy-saving systems are sufficient to support the demands of growth;
- (3) Base decisions of least-cost supply-side and demand-side energy resource options on a comparison of their total costs and benefits when a least-cost is determined by a reasonably comprehensive, quantitative, and qualitative accounting of their long-term, direct and indirect economic, environmental, social, cultural, and public health costs and benefits;
- [(3)] (4) Promote [prudent use] all cost-effective conservation of power and fuel supplies through [conservation] measures including:
  - (A) Development of cost-effective demand-side management programs;
  - (B) Education; and
  - (C) Adoption of energy-efficient practices and technologies;[and]
- [(4)] (5) Ensure [that] to the extent that new supply-side resources are needed, the development or expansion of [power] energy systems [and sources adequately consider environmental, public health, and safety concerns, and resource limitations.] utilizes the least-cost energy supply option and maximizes efficient technologies;
- (6) Support research, development, and demonstration of energy efficiency, load management, and other demand-side management programs, practices, and technologies; and
- (7) Promote alternate fuels and energy efficiency by encouraging diversification of transportation modes and infrastructure.

[(d)] To further achieve the telecommunication objective, it shall be the policy of this State to:

- (1) Facilitate research and development of telecommunication systems and resources.
- (2) Encourage public and private sector efforts to develop means for adequate, ongoing telecommunication planning.
- (3) Promote efficient management and use of existing telecommunication systems and services.
- (4) Facilitate the development of education and training of telecommunication personnel.]”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

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

(Approved June 8, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 97**

H.B. NO. 2882

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

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

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

**“§307- Contracts with state agencies.** Any contract between the research corporation and any agency, office, department, or other administrative subdivision of the executive branch of this State shall include the following:

- (1) Its termination date;
- (2) Its intent and purpose;
- (3) A statement establishing the full permissible extent of its applicability; and
- (4) A description of the circumstances under which it may be amended or extended.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 8, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 98**

H.B. NO. 2909

A Bill for an Act Relating to Going Out of Business Sales.

*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  
GOING OUT OF BUSINESS SALES**

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

“Going out of business sale” means any sale, whether described by that name or any other name including but not limited to “closing out sale,” “lost our lease sale,” “forced to vacate sale,” and “inventory close out sale,” held in a manner as to induce a belief that upon disposal of the stock of goods on hand, the

business will cease and be discontinued at the premises where the sale is conducted, and that otherwise complies with all applicable laws and rules relating to sales and conduct of sales.

“Goods” includes all goods, wares, merchandise, and other personal property, excepting choses in action and money.

“Person” includes a person, firm, corporation, partnership, association, or two or more persons having a joint or common interest.

“Removal sale” means any sale held in such a manner as to induce a belief that upon disposal of the stock of goods on hand, the business will cease and be discontinued at the premises where the sale is conducted, and thereafter will be moved to occupy another location.

§ -2 **Insurance, salvage, removal, going out of business, creditor’s, and other special sales; sale of damaged goods; notice required; exceptions.** No person shall directly or indirectly advertise or cause to be advertised, represent or cause to be represented, or hold out to the public in any manner that any sale of goods is an insurance, salvage, removal, going out of business, insolvent’s, assignee’s, or creditor’s sale of goods, or that it is a sale of goods which have been damaged by fire, smoke, water, or otherwise, without first posting a notice as provided in this chapter, if that person:

- (1) Has inventory which includes one hundred or more items, each costing \$100 or more; and
- (2) Has placed advertising having a list or fair market value of \$10,000 or more.

This section shall not apply to any sales made under the direction of any court or trustee in bankruptcy, or to any person acting under the direction and supervision of state or federal courts in the course of their official duties. This section shall not apply to any sales by a person regularly engaged in insurance or salvage of goods, or sale of goods which have been damaged by fire, smoke, water, or otherwise, who acquired the goods for the account of others as a result of fire or other casualty.

§ -3 **Posting of notice.** A person required to post notice under this chapter shall post a notice which shall be not less than twenty-two inches by thirty-three inches in size and posted in a conspicuous place which is visible and readable outside the place of business where the sale is to be held. The notice shall be signed under penalty of perjury. Where the person is a corporation, the notice shall be signed by two officers. Where the person is a partnership, the notice shall be signed by two partners. The notice shall include the following:

- (1) The name and address of the owner of the goods being sold. If the person is a partnership, corporation, firm, or association, the full name and position of the individual filing the notice;
- (2) The type of sale and manner in which the sale is to be conducted and the address where the sale is to be conducted;
- (3) The dates and time during which the sale is to be conducted;
- (4) The name and street address of the person in charge of and responsible for the conduct of the sale;
- (5) An explanation regarding the condition or necessity for the sale, including a statement of the descriptive name of the sale and the reasons why the name is truthfully descriptive of the sale. The notice shall contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale. If the sale is with respect to a removal sale, it shall contain

a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale, in addition to the location of the premises to which the business is to be moved. If the sale is with respect to the sale of goods damaged by fire, smoke, water, or otherwise, the notice shall contain a statement as to the time, location, and cause of the damage;

- (6) The notice shall state that an inventory report form, containing a detailed list and inventory of each item of inventory costing over \$100 to be sold, itemizing the goods to be sold, and containing sufficient information concerning each item, including make and brand name, shall be available for inspection on the store premises on request. The inventory report form shall list separately goods which were purchased during the sixty-day period immediately prior to the date of posting the notice showing the cost price of each item to the owner of the inventory together with the name and address of the seller of the item to the owner of the inventory, the date of purchase, the date of delivery to the owner of the inventory, and the total value of the inventory at cost;
- (7) A statement that no goods will be added to the inventory after posting the notice or during the sale, and that the inventory contains no goods received on consignment; and
- (8) A statement disclosing the date from which the person has maintained a place of business within the State prior to the posting of the notice.
- (9) This section shall not apply to any person who acquired a right, title, or interest in the goods:
  - (A) As an heir, devisee, legatee, or surviving joint tenant;
  - (B) As an executor, administrator, trustee, guardian or conservator; or
  - (C) Pursuant to an order or process of a court of competent jurisdiction.

§ -4 **Violation; penalties.** Any violations of this chapter shall constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce as prescribed in section 480-2 and subject to the civil penalty prescribed in section 480-3.1.”

SECTION 2. This Act shall take effect upon its approval; provided that this Act shall be repealed three years from the date of its approval.

(Approved June 8, 1994.)

## ACT 99

H.B. NO. 2925

A Bill for an Act Relating to Prepaid Health Care.

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

SECTION 1. The legislature finds that the State of Hawaii has been providing quality health care to a large majority of its residents since 1974, when the Hawaii Prepaid Health Care Act was enacted. Implementation of a statewide health plan has resulted in our state's having one of the healthiest populations in



## ACT 100

the country, and becoming a model for the nation as health care reform moves to the front of the national agenda. While it is refreshing to see that Hawaii's historic reform may soon be replicated on a national scale, it is imperative that our state health care is not jeopardized by a federal plan that may not be consistent with our hard-won state benefits.

The purpose of this Act is to ensure that Hawaii residents continue to receive top-quality health care, regardless of any federal plan that may be enacted, by repealing the provision of our current prepaid health care law that sunsets the state law upon enactment of a national health plan.

SECTION 2. Chapter 393, part V, Hawaii Revised Statutes, is repealed.

SECTION 3. This Act shall take effect upon the effective date of any federal act permitting the amendment of the Hawaii Prepaid Health Care Act.

(Approved June 8, 1994.)

## ACT 100

H.B. NO. 2944

A Bill for an Act Relating to Real Estate Brokers and Salespersons.

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

SECTION 1. Section 467-1, Hawaii Revised Statutes, is amended by amending the definitions of "custodian or caretaker", "real estate broker", and "real estate salesperson" to read as follows:

“Custodian or caretaker” means any [person,] individual, who for compensation or valuable consideration, is employed [either directly or indirectly] as an employee by a single owner and has the responsibility to manage or care for that real property left in the [person's] individual's trust; provided that the term “custodian” or “caretaker” shall not include any [person] individual who leases or offers to lease, or rents or offers to rent, any real estate for more than a single owner; provided further that a single owner shall not include an association of owners of a condominium, cooperative, or planned unit development.

“Real estate broker” means [and includes] any person[, copartnership, or corporation,] who, for compensation or a valuable consideration, sells or offers to sell, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or lists, or solicits for prospective purchasers, or who leases or offers to lease, or rents or offers to rent, any real estate, or the improvements thereon, for others, as a whole or partial vocation; or who secures, receives, takes, or accepts, and sells or offers to sell, any option on real estate without the exercise by the person[, copartnership, or corporation] of the option and for the purpose or as a means of evading the licensing requirement of this chapter.

“Real estate salesperson” means any [person] individual who, for a compensation or valuable consideration, is employed either directly or indirectly by a real estate broker, or is an independent contractor in association with a real estate broker, to sell or offer to sell, buy or offer to buy, or list, or solicit for prospective purchasers, or who leases or offers to lease, or rents or offers to rent any real estate, or the improvements thereon, for others as a whole or partial vocation; or who secures, receives, takes, or accepts, and sells or offers to sell, any option on real estate without the exercise by the [person] individual of [such] the option and

for the purpose or as a means of evading the licensing requirements of this chapter. Every real estate salesperson [must] shall be under the direction of a real estate broker for all real estate transactions. [All references in this chapter to “real estate salesman” includes “real estate salesperson”.]”

SECTION 2. Section 467-2, Hawaii Revised Statutes, is amended to read as follows:

“**§467-2 Exceptions.** The provisions requiring [a person to be licensed] licensing as a real estate broker or salesperson shall not apply:

- (1) To any [person] individual who, as owner of any real estate or acting under power of attorney from the owner, performs any of the acts enumerated in the definitions of real estate broker and real estate salesperson with reference to such real estate; provided that the term “owner” as used in this paragraph shall not include any [person] individual engaged in the business of real estate development or brokerage or include [such person] an individual who acquires any interest in any real estate for the purpose or as a means of evading the licensing requirements of this chapter; and provided further that the term [person] individual “acting under power of attorney” as used in this paragraph shall not include any [person] individual engaged in the business of real estate development or brokerage or [such person] any individual who acts under a power of attorney for the purpose or as a means of evading the licensing requirements of this chapter;
- (2) To any person acting as a receiver, trustee in bankruptcy, personal representative, or trustee acting under any trust agreement, deed of trust, or will, or otherwise acting under any order of authorization of any court;
- (3) To any [person] individual who leases, offers to lease, rents, or offers to rent, any real estate or the improvements thereon of which the [person] individual is the custodian or caretaker;
- (4) To any person who manages, rents, or operates a hotel; or
- (5) To any provider agency owning, leasing, operating, or managing a homeless facility, or any other program for the homeless authorized under chapter 358D.”

SECTION 3. Section 467-4, Hawaii Revised Statutes, is amended to read as follows:

“**§467-4 Powers and duties of commission.** In addition to any other powers and duties authorized by law, the real estate commission shall:

- (1) Grant licenses [to real estate brokers and real estate salespersons], registrations, and certificates pursuant to this chapter;
- (2) Adopt, amend, or repeal [such] rules as it may deem proper to [fully] effectuate this chapter and carry out its purpose, which is the protection of the general public in its real estate transactions. All rules shall be approved by the governor and the director of commerce and consumer affairs, and when adopted pursuant to chapter 91 shall have the force and effect of law. The rules may forbid acts or practices deemed by the commission to be detrimental to the accomplishment of the purpose of this chapter, and the rules may require real estate brokers and salespersons to make reports to the

commission containing [such] items of information as will better enable the commission to enforce this chapter and the rules, or as will better enable the commission from time to time to amend the rules to more fully effect the purpose of this chapter, and, further, the rules may require real estate brokers and salespersons to furnish reports to their clients containing [such] matters of information as the commission deems necessary to promote the purpose of this chapter. This enumeration of specific matters [which] that may properly be made the subject of rules shall not be construed to limit the commission's broad general power to make all rules necessary to fully effectuate the purpose of this chapter;

- (3) Enforce this chapter and rules adopted pursuant thereto;
- (4) Suspend, fine, terminate, or revoke any license, registration, or certificate for any cause prescribed by this chapter, or for any violation of the rules, and refuse to grant any license, registration, or certificate for any cause [which] that would be a ground for [revocation or] suspension, fine, termination, or revocation of a license[;], registration, or certificate;
- (5) Report to the governor and the legislature relevant information that shall include but not be limited to a summary of the programs and financial information about the trust funds, including balances and budgets, through the director of commerce and consumer affairs annually, before the convening of each regular session, and at [such] other times and in [such] other [manner] manners as the governor or the legislature may require concerning its activities;
- (6) Publish and distribute pamphlets and circulars containing [such] any information as [it deems] is proper to further the accomplishment of the purpose of this chapter; and
- (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 school visitations.] effectuating the purpose of this chapter."

SECTION 4. Section 467-8, Hawaii Revised Statutes, is amended to read as follows:

**"§467-8 Prerequisites for [licensing.] a license, registration, or certificate.** No license, registration, or certificate under this chapter shall be issued to:

- (1) Any [person] individual applying for a real estate broker or salesperson license who does not satisfy the requirements set forth in section 467-9.5;
- (2) Any [person] individual applying for a real estate broker or salesperson license unless the [person] individual has demonstrated by passing with a grade satisfactory to the commission an examination appropriate to the license sought that the [person] individual has a reasonable knowledge of:
  - (A) [estates,] Estates, interests, and rights in real property[.];
  - (B) [the] The documents or acts or occurrences by which [such] property is transferred or otherwise affected[.];
  - (C) [the] The rights and duties of an agent[.];
  - (D) [the] The laws of the State relating to real estate brokers and salespersons[.]; and

- (E) [such other] Other subjects [as] that the commission determines to be essential for the protection of the general public in its real estate transactions;
- (3) Any person who does not possess a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing;
  - (4) Any partnership unless the real estate brokerage business thereof is under the direct management of a general partner or employee thereof and unless the general partner or employee holds a real estate broker's license; or
  - (5) 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 5. Section 467-9, Hawaii Revised Statutes, is amended by amending the title to read:

**"§467-9 License, registration, certificate, and applications."**

SECTION 6. Section 467-9.5, Hawaii Revised Statutes, is amended to read as follows:

**"§467-9.5 Prerequisites for examination.** No [person] individual shall be eligible for the licensing examination unless:

- (1) The [person] individual is a citizen of the United States, or an alien who is authorized to work in the United States, and of the age of majority;
- (2) The [person] individual applying for the real estate salesperson examination has satisfactorily completed a preclicensing course for real estate salesperson candidates which includes real estate principles, or its equivalent, approved or accredited by the commission;
- (3) The [person] individual applying for the real estate broker examination has satisfactorily completed a preclicensing course for real estate [brokers] broker candidates, or its equivalent, approved or accredited by the commission; and
- (4) The [person] individual applying for the real estate broker examination:
  - (A) [is] Is licensed as an active or inactive Hawaii real estate salesperson[,]; and
  - (B) [has] Has been engaged in the real estate business as a licensed Hawaii real estate salesperson for a minimum period of two years on a full-time basis and has practical experience in the real estate field as determined by the commission.

The commission may waive a portion of the two years' experience, if the [person] individual has had other experience or education in real estate, which, in the opinion of the commission, is equivalent to experience, to be established by detailed explanatory affidavit or in [such] any other manner as may be determined by the commission.

Each [person] individual shall certify on the application for examination that the prerequisites set forth above have been or will be satisfied prior to the date of examination. The examination score of any [person] individual who has taken the examination without having satisfied the prerequisites set forth above shall be voided."

## ACT 100

SECTION 7. Section 467-9.6, Hawaii Revised Statutes, is amended to read as follows:

“**§467-9.6 Examination [fee].** Every applicant for a real estate examination shall file an application with either the [real estate] commission or the testing service agency designated by the [real estate] commission pursuant to rules of the commission to provide the testing service. The application shall be in a form prescribed by the commission and shall include a certification statement that the applicant has fulfilled or will fulfill by the date of the examination, the prerequisites for [written] examination. Every application shall be accompanied by an examination fee as determined by the commission by rules adopted pursuant to chapters 26 and 91. Applicants [may] shall apply for real estate licenses in [such] the manner [as] prescribed by the commission.”

SECTION 8. Section 467-10, Hawaii Revised Statutes, is amended to read as follows:

“**§467-10 Form of licenses[.], registrations, and certificates.** The form of every license, registration, and certificate shall be prescribed by the [real estate] commission, and shall be issued in the name of the commission[, and signed by the chairman or a member thereof].”

SECTION 9. Section 467-15, Hawaii Revised Statutes, is amended to read as follows:

“**§467-15 Hearings.** In every case where it is proposed [to refuse to grant a license because of bad character or bad reputation for honesty, truthfulness, or fair dealing, or] to revoke or suspend the exercise of any license for any of the causes enumerated in section 467-14, the person concerned shall be given notice and hearing in conformity with chapter 91.

In all proceedings before it, the [real estate] commission and each member thereof 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 cases of disobedience by any person of any order of the commission, or any member thereof, or of any subpoena issued by it, or the member, or the refusal of any witness to testify to any matter [regarding] to which the witness may be questioned lawfully, any circuit judge, on application by the commission, or a member thereof, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein.”

SECTION 10. Section 467-15.5, Hawaii Revised Statutes, is amended to read as follows:

“**§467-15.5 License issued after a revocation or automatic termination.** A person whose license has been revoked, or automatically terminated in accordance with section 467-18(e), may apply for a license as a new applicant after the revocation or termination period and, if applicable, after repayment to the real estate recovery fund[.] and compliance with all the terms of the commission's final order. Any person who was previously licensed as a real estate broker[.] shall apply as a real estate salesperson. Any person who was previously licensed as a real estate salesperson[.] shall apply as a real estate salesperson. A new

applicant refused licensure as a real estate broker pursuant to this section shall not be entitled to a hearing on that refusal. [The commission may recognize an applicant's education, examination score, and experience previously used to satisfy the requirements of sections 467-8(2), and 467-9.5(2), (3) and (4), and commission rules relating thereto.]”

SECTION 11. Section 467-18, Hawaii Revised Statutes, is amended:

1. By amending subsection (a) to read as follows:

“(a) No action for a judgment [which] that subsequently results in an order for collection from the real estate recovery fund shall be started later than two years from the accrual of the cause of action thereon. When any aggrieved person commences action for a judgment [which] that may result in collection from the real estate recovery fund, the aggrieved person shall notify the [real estate] commission in writing to this effect at the time of the commencement of [such] the action[.] and shall submit prescribed documents. The commission may intervene in and defend any such action.”

2. By amending subsection (e) to read as follows:

“(e) Should the commission pay from the real estate recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed real estate broker or real estate salesperson, the license of the broker or salesperson shall be automatically terminated upon the issuance of a court order authorizing payment from the real estate recovery fund. No [such] broker or salesperson shall be eligible to receive a new license until the expiration of at least [two] five years from the effective date of the termination of the license and until the terminated real estate broker or salesperson has repaid in full, plus interest at the rate provided for in section 478-3, the amount paid from the real estate recovery fund on the terminated real estate broker's or salesperson's account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.”

SECTION 12. Section 467-20, Hawaii Revised Statutes, is amended to read as follows:

“**§467-20 False statement.** It shall be unlawful for any person or the person's agent to testify before or file with the [real estate] commission, or the testing service agency designated by the [real estate] commission, any notice, statement, or other document required under this chapter, [which] that is false or untrue or contains any material misstatement of fact[. Any], or contains forgery. In addition to any sanctions or remedies as provided in this chapter, any violation of this section shall constitute a misdemeanor punishable pursuant to section 706-640 or 706-663, or both, and not pursuant to section 467-26.”

SECTION 13. Section 467-30, Hawaii Revised Statutes, is amended:

1. By amending the title to read as follows:

“**§467-30 Registration, licenses, and bonding [required to operate] requirements for condominium hotel[.] operators.**”

2. By amending subsections (b) and (c) to read as follows:

“(b) [Any] All condominium hotel operators shall register with the

## ACT 100

commission as a sole proprietor, partnership, or corporation [operating a condominium hotel who is not a custodian or caretaker as defined in section 467-1] and shall:

- (1) Obtain a license as a real estate broker in compliance with this chapter and the rules of the commission;
- (2) Register on an annual basis as a condominium hotel operator[.] with the commission. Registration information shall include but not be limited to the number of [apartment units] apartments managed for others as well as the number of [apartment units] apartments owned by the condominium hotel operator. Any operator failing to register with the commission shall be subject to a fine not exceeding an amount equal to \$25 multiplied by the aggregate number of [units] apartments being utilized as a condominium hotel. Each month or fraction of a month of noncompliance shall be deemed a new and separate violation;
- (3) Provide evidence of fidelity bonding to the commission in an amount equal to \$500 multiplied by the aggregate number of [apartment units] apartments in the condominium hotel operation; provided that the minimum of the bond required by this paragraph shall not be less than \$20,000 nor greater than \$100,000. The aggregate number of [units] apartments excludes the number of [units] apartments owned by the condominium hotel operator either as a sole proprietor, partnership, or corporation or those [units] apartments included in a registered time share plan managed by a registered time share plan manager. The bond shall cover all of the condominium hotel operator's employees handling or having custody and control of either the condominium hotel operator's or the apartment owner's funds, or both; and
- (4) Pay an application fee and upon approval an initial and an annual registration fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, which fees shall be deposited with the director of finance to the credit of the general fund[.];

provided that this subsection shall not apply to persons who are subject to section 467-2.

(c) In the course of operating a condominium hotel, neither a real estate broker license nor a real estate salesperson license shall be required of those employees of [any sole proprietor, partnership, or corporation performing] a condominium hotel operator who only perform or [facilitating] facilitate the delivery of customary hotel services."

3. By amending subsections (e) and (f) to read as follows:

"(e) As used in this section "operating a condominium hotel" includes the management of the [apartment units] apartments in a condominium project for purposes of providing transient lodging, and includes the renting or leasing of condominium [apartment units] apartments directly or indirectly from the apartment owners for purposes of providing transient lodging. The condominium hotel operator shall provide a written contract to the owner or owners of each apartment under the condominium hotel operation, expressing the exact agreements of each party including all financial and accounting obligations, and if applicable, the notification requirements of subsection (f).

(f) [Condominium hotel operators] A condominium hotel operator operating exclusively in condominium projects specifically authorized [as hotels] for

transient lodgings by county zoning and regulations and specifically permitted by the condominium project's declaration and bylaws [shall] may be exempt from subsection (b)(1); provided that [they shall] the condominium hotel operator:

- (1) Shall not provide or offer lodgings thirty days or longer;
- (2) Shall not be licensed as a real estate broker or a real estate salesperson;
- (3) Shall not conduct any other activities contained in the definition of the term "real estate brokers";
- (4) Shall appoint an employee or principal to have direct management and responsibility over condominium hotel operations; and
- (5) Shall provide evidence of written notification to all representing apartment owners of the real estate broker exemption and the provisions of this subsection including the nonapplicability of the real estate recovery fund, and apply to the commission for approval of the exemption [or exclusion] on a form provided by the commission."

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 15. This Act shall take effect upon its approval.

(Approved June 8, 1994.)

## ACT 101

H.B. NO. 2965

A Bill for an Act Relating to the Review Commission on the State Water Code.

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

SECTION 1. Act 45, Session Laws of Hawaii 1987, is amended by amending subsection (a) of Section 5 to read as follows:

“(a) There is established within the legislative reference bureau for administrative purposes a review commission on the state water code consisting of [seven] nine members appointed by the president of the senate and the speaker of the house of representatives[.]; provided that of the nine members, at least two members shall be residents of the counties of Hawaii, Kauai, or Maui. The review commission shall be directly accountable to the legislature. The review commission shall perform a comprehensive review of the state water code and the development of recommendations for its improvement. The review shall include, but not be limited to, the following:

- (1) [all] All water issues addressed in the state water code;
- (2) [other] Other water matters of fundamental importance which should be dealt with in a state water code, but which have not yet been incorporated, such as the identification and definition of public and private rights to waters, the institution of a comprehensive statewide permit system to regulate all types and uses of water, the integration of water quality and water quantity matters for a unified management of the resource by a single lead agency; and
- (3) [the] The appropriate agencies of the state and county levels responsible for protecting, developing, and controlling water, their aims



and objectives, the necessary powers to be conferred upon them, and their organizational support.”

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

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

(Approved June 8, 1994.)

ACT 102

H.B. NO. 2975

A Bill for an Act Relating to Adult Probation Records.

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

SECTION 1. Section 806-73, Hawaii Revised Statutes, is amended to read as follows:

“**§806-73 Duties and powers of probation officers; adult probation records.** (a) A probation officer shall investigate any case referred to the probation officer for investigation by the court in which the probation officer is serving and report thereon to the court. The probation officer shall instruct each defendant placed on probation under the probation officer’s supervision [regarding] of the terms and conditions of the defendant’s probation. The probation officer shall keep informed concerning the conduct and condition of the defendant and [shall] report thereon to the court, and shall use all suitable methods to aid the defendant and [to] bring about an improvement in the defendant’s conduct and condition. The probation officer shall keep these records and perform other duties as the court may direct.

(b) All records of the Hawaii state adult probation divisions [are] shall be confidential and [are] shall not be deemed to be public records[ , including]. As used in this section, the term “records” includes but is not limited to[,] all records made by any adult probation officer in the course of performing the probation officer’s official duties; provided that the records, or the content of the records, shall be divulged only as follows:

- (1) A copy of any adult probation division case record or of a portion of it, or the case record itself, [may] upon request, may be provided [only] to an adult probation officer of a Hawaii state adult probation division[; provided that a written summary of the record may be provided upon request to any], a family court officer who is preparing a report for the courts, or a state or federal criminal justice agency [which is] that:
  - (A) Is providing supervision of a defendant or offender convicted and sentenced by the courts of Hawaii[, or
  - (B) Is responsible for the preparation of a report for a court[.];
- (2) The contents of any adult probation division case record relevant for the purpose of serving a summons or bench warrant in a civil or criminal proceeding or [in] a deportation proceeding, may be released only to a state or federal law enforcement agency[.]; and
- (3) A copy of a presentence report or investigative report shall be provided only to [the];

- (A) The persons or entities named in section 706-604; [to the]
- (B) The Hawaii paroling authority; [to any]
- (C) Any psychiatrist, psychologist, or other [mental health] treatment practitioner who is treating the defendant pursuant to a court order or parole order<sup>1</sup> for [mental health care; to the] that treatment;
- (D) The intake service centers; [in]
- (E) In accordance with applicable law [to], persons or entities doing research; [to any] and
- (F) Any Hawaii state adult probation officer or [to an] adult probation officer of another state or federal jurisdiction who [is]:
  - (i) Is engaged in the supervision of a defendant or offender convicted and sentenced in the courts of Hawaii[, or which is]; or
  - (ii) Is engaged in the preparation of a report for a court regarding a defendant or offender convicted and sentenced in the courts of Hawaii.

(c) Every probation officer [shall], within the scope of the probation officer's duties, shall have the powers of a police officer."

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

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

(Approved June 8, 1994.)

**Note**

- 1. Should not be underscored.

**ACT 103**

H.B. NO. 2989

A Bill for an Act Relating to the Judicial Circuits.

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

SECTION 1. Section 603-1, Hawaii Revised Statutes, is amended to read as follows:

**"§603-1 Judicial circuits.** The State is divided into four judicial circuits, as follows:

- (1) The first judicial circuit is the island of Oahu and all other islands belonging to the State not hereinafter mentioned[, and the district of Kalawao on the island of Molokai];
- (2) The second judicial circuit includes the islands of Maui, Molokai [(except the Kalawao district)], Lanai, Kahoolawe, and Molokini;
- (3) The third judicial circuit is the island of Hawaii;
- (4) The fifth judicial circuit includes the islands of Kauai and Niihau."

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.

**ACT 104**

SECTION 3. Statutory material to be repealed is bracketed.

SECTION 4. This Act shall take effect on July 1, 1994.

(Approved June 8, 1994.)

**ACT 104**

H.B. NO. 3090

A Bill for an Act Relating to Cigarette and Tobacco Tax.

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

SECTION 1. Section 245-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "dealer" to read as follows:

““Dealer” means any person coming into the possession of cigarettes or tobacco products, or any person rendering a distribution service who buys and maintains, at the person’s place of business, a stock of cigarettes or tobacco products which have not been acquired from a wholesaler or dealer licensed under this chapter, and who distributes or uses such cigarettes or tobacco products.”

2. By amending the definition of "wholesaler" to read as follows:

““Wholesaler” means a person rendering a distribution service who buys and maintains, at the person’s place of business, a stock of cigarettes or tobacco products that the person uses, possesses, or distributes only to retailers, or other wholesalers, or both.”

SECTION 2. Section 245-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every wholesaler or dealer, in addition to any other taxes provided by law, shall pay for the privilege of conducting business and other activities in the State an:

- (1) Excise tax equal to 3.00 cents for each cigarette sold, used, or possessed by the wholesaler or dealer, after June 30, 1993, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer; such excise tax to increase to 3.50 cents per cigarette on the first day of the month one hundred eighty days after a United States congressional act is signed into law which requires military installations to purchase cigarettes in Hawaii in a manner similar to that required of alcoholic beverages under 10 United States Code, section 2488 (nonappropriated fund instrumentalities, purchase of alcoholic beverages); and
- (2) Excise tax equal to forty per cent of the wholesale price of each article or item of tobacco products sold by the wholesaler or dealer, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer.

Where the tax imposed has been paid on cigarettes or tobacco products which thereafter become the subject of a casualty loss deduction allowable under chapter 235, the tax paid shall be refunded or credited to the account of the wholesaler or dealer. In applying the tax, the tax shall be applied against the latest

of the activities of selling, using, or possessing. The tax shall be imposed at the time of the last of the following activities to occur: the sale; the use; or the possession of cigarettes or tobacco products.

SECTION 3. Section 245-5, Hawaii Revised Statutes, is amended to read as follows:

“**§245-5 Returns.** Every licensee, on or before the last day of each month, shall file with the department of taxation a return showing the cigarettes and tobacco products sold, possessed, or used by the licensee during the preceding calendar month and of the taxes chargeable against the taxpayer in accordance with this chapter. The form of the return shall be prescribed by the department and shall contain such information, including a separate statement of the number and wholesale price of cigarettes, and the wholesale price of tobacco products, sold, possessed, or used, as it may deem necessary for the proper administration of this chapter.”

SECTION 4. Section 245-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every wholesaler and dealer shall keep a record of every sale or use of cigarettes and tobacco products by the wholesaler or dealer, the number and wholesale price of cigarettes, and the wholesale price of tobacco products, sold, possessed, or used, and of the taxes payable thereon, if any, in such form as the department of taxation may prescribe. The records shall be offered for inspection and examination at any time upon demand by the department and shall be preserved for a period of five years, except that the department, in writing, may consent to their destruction within the five-year period or may require that they be kept longer. The department, by rule, may require the licensee to keep such other records as it may deem necessary for the proper enforcement of this chapter.”

SECTION 5. New statutory material is underscored.

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

(Approved June 8, 1994.)

## ACT 105

H.B. NO. 3137

A Bill for an Act Relating to Administrative Process for Child Support Enforcement.

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

SECTION 1. Section 576E-1, Hawaii Revised Statutes, is amended by adding new definitions to be appropriately inserted and to read as follows:

““Office” means the office of child support hearings established pursuant to section 576E-10.

“Party” means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, including but not limited to the custodial parent and the responsible parent.”

SECTION 2. Section 576E-1, Hawaii Revised Statutes, is amended by amending the definitions of “custodial parent” and “responsible parent” to read:

““Custodial parent” means a parent, guardian, or other person having physical custody of the child.

“Responsible parent” means any person who<sup>1</sup> does not have physical custody of the child and who has a legal duty of support.”

SECTION 3. Section 576E-2, Hawaii Revised Statutes, is amended to read as follows:

**“§576E-2 Attorney general; powers.** Notwithstanding any other law to the contrary, the attorney general, through the [child support enforcement] agency[,] and the office, shall have concurrent jurisdiction with the court in all proceedings in which a support obligation is established, modified, or enforced, including, but not limited to, proceedings under chapters 571, 580, 584, and 576, the Uniform Reciprocal Enforcement of Support Act. The attorney general, through the [child support enforcement] agency[,] and the office, may establish, modify, suspend, terminate, and enforce child support obligations and collect or enforce spousal support using the administrative process provided in this chapter on all cases for which the department has a responsibility under Title IV-D of the Social Security Act, including but not limited to welfare and nonwelfare cases in which the responsible parent is subject to the department’s jurisdiction, regardless of the residence of the children for whom support is sought. These powers shall include, but not be limited to, the power to:

- (1) Conduct investigations into the ability of [responsible parents] parties to pay support and into nonpayment of support;
- (2) Administer oaths, issue subpoenas, and require production of books, accounts, documents, and evidence;
- (3) Establish, modify, suspend, terminate, or enforce a child support order and to collect or enforce a spousal support order in conjunction with a child support order;
- (4) Determine that a [responsible parent] party has not complied with a court or administrative order and make recommendations to the court or other agency with respect to contempt or other appropriate proceedings;
- (5) Establish arrearage;
- (6) Establish a public assistance debt under section 346-37.1;
- (7) Order and enforce assignment of future income under section 576E-16, and chapter 571;
- (8) Exercise the powers and authority described in this section, notwithstanding the existence of a prior court or administrative order issued by another state or foreign jurisdiction, except as modified or limited by this chapter; and
- (9) Delegate the powers and authority described in this section to hearings officers and employees of the agency.”

SECTION 4. Section 576E-3, Hawaii Revised Statutes, is amended to read as follows:

**“§576E-3 Jurisdiction.** Notwithstanding any other law to the contrary, the attorney general, through the agency and the office, shall have concurrent jurisdiction with the court over:

- (1) Any person found within the State of Hawaii against whom a child support obligation may be established, modified, suspended, terminated, or enforced; and
- (2) Any person without the State who has maintained a domicile in this State while involved in a marital or family relationship out of which arises a claim for child support, including any person against whom a Hawaii court or agency has entered a support order.”

SECTION 5. Section 576E-4, Hawaii Revised Statutes, is amended to read as follows:

“**§576E-4 Service [of process].** (a) Service of the notice provided in section 576E-5 shall be by personal service or certified mail, return receipt requested. After initial service is effected, additional service upon a party shall be satisfied by regular mail to the party’s last known address.

(b) Service of the notice of hearing pursuant to the request for hearing under section 576E-6 of a party shall be satisfied by regular mail to the party’s address provided with the request for hearing, or if not provided, to the party’s last known address.”

SECTION 6. Section 576E-5, Hawaii Revised Statutes, is amended to read as follows:

“**§576E-5 Commencement of administrative proceedings; notice.** The agency shall serve a notice of administrative proceedings and notice of financial responsibility upon the [responsible parent] parties prior to the issuance of an order under this chapter. Where applicable, notice shall contain the following:

- (1) A copy or statement of the order proposed to be entered;
- (2) A statement that the [responsible parent is] parties are entitled to an administrative hearing before an impartial hearings officer to contest the entry of the order together with an explanation of the procedure for requesting a hearing;
- (3) A statement of rights at the hearing together with an explanation of defenses or objections which may be considered by the hearings officer;
- (4) [The] A statement of the legal authority under which the hearing is to be held;
- (5) A statement that the property of the [responsible parent] parties may be seized or that the income of the [responsible parent] parties may be withheld for payment of support;
- (6) A statement that information relating to the [responsible parent’s] parties’ nonpayment of support may be made available to credit-reporting agencies;
- (7) A statement that child and spousal support shall be payable by an order for immediate income withholding which shall be entered concurrently with the administrative order pursuant to section 576E-16;
- (8) A statement that [the responsible parent has] parties have the right to request judicial review of a final order of a hearings officer pursuant to section 576E-13;
- (9) A statement that an administrative determination of a support obligation creates a judgment by operation of law upon filing of the order at the family court and as such is entitled to full faith and credit in any other state or jurisdiction.”

**ACT 105**

SECTION 7. Section 576E-6, Hawaii Revised Statutes, is amended to read as follows:

**“§576E-6 Request for hearing; how made.** (a) Except as provided in subsection (b), any [responsible parent] party who is aggrieved by the proposed order of the agency may, within ten days of service of a notice described in section 576E-5, obtain a hearing by sending a written request for hearing to the agency [office that issued] at the address from which the notice[.] was sent.

(b) In the case of a proposed order to modify child support resulting from the agency’s periodic review of support orders, a [responsible parent] party aggrieved by the proposed order may request a hearing within thirty days of service of a notice described in section 576E-5.

(c) Notice of the hearing under this section shall be served in accordance with section 576E-4.”

SECTION 8. Section 576E-7, Hawaii Revised Statutes, is amended to read as follows:

**“§576E-7 Failure to request hearing; effect.** If the [responsible parent fails] parties fail to request a hearing [within ten days of service of the notice issued pursuant to section 576E-5, the agency shall adopt] pursuant to section 567E-6, a hearings officer shall sign the proposed order as the final order in the action.”

SECTION 9. Section 576E-8, Hawaii Revised Statutes, is amended to read as follows:

**“[[§576E-8]] Action by agency upon request for hearing.** Upon receipt of a hearing request, the agency shall contact the [responsible parent] parties and attempt to reach an agreed disposition. If no agreed disposition can be obtained, the matter shall be referred to a hearings officer for contested case proceedings.”

SECTION 10. Section 576E-9, Hawaii Revised Statutes, is amended to read as follows:

**“§576E-9 Hearings in contested cases.** Hearings in contested cases shall be conducted in accordance with this chapter, and when otherwise applicable, chapter 91, and shall be presided over by a hearings officer appointed and commissioned by the attorney general pursuant to section 576E-10. The attorney general may adopt such administrative rules pursuant to chapter 91, as may be necessary to carry out this section. In any hearing conducted under this section, [the responsible parent] all parties shall have the right to confront and cross-examine witnesses, to present witnesses and evidence, to be represented by counsel or other person, and to be notified of these rights in writing. Hearings may be conducted by telephone or other electronic telecommunications methods at the discretion of the hearings officer.”

SECTION 11. Section 576E-10, Hawaii Revised Statutes, is amended to read as follows:

**“§576E-10 Hearings officers.** (a) The attorney general shall establish the office of child support hearings, and shall appoint and commission, without

regard to chapters 76 and 77, such hearings officers as may be necessary to carry out the purposes of this chapter.

(b) Hearings officers shall exercise all of the powers granted to the attorney general under this chapter, but shall not be considered deputy attorneys general and shall not exercise the powers or discharge the duties conferred upon the attorney general or the attorney general's deputies by chapter 28.

(c) In exercising the powers conferred upon the attorney general in section 576E-2, the hearings officers shall have the authority to[:

- (1) Enter a default order against a responsible parent who fails to appear at the time and place of the hearing, upon a showing of proper notice to that parent;
- (2) Accept a voluntary acknowledgment of support liability or stipulated agreement setting the amount of support to be paid after application of the guidelines established under section 576D-7;
- (3) Enter an income withholding order pursuant to section 576E-16;
- (4) Conduct a hearing and enter an automatic income assignment order pursuant to section 571-52.2;
- (5) Enter an interstate income withholding order pursuant to section 576E-16;
- (6) Enter support orders which have the effect of modifying, suspending, terminating, or enforcing the child support provision of orders of the Hawaii family courts;
- (7) Enter support orders of any form if the order establishes, modifies, suspends, terminates, or enforces child support obligations;
- (8) Receive testimony from the parties to the hearing and establish a record;
- (9) Evaluate the testimony and other evidence received at the hearing and make specific findings of fact and conclusions of law after contested case hearings and when otherwise required by law;
- (10) Issue subpoenas;
- (11) Compel production of documents and witnesses;
- (12) Dismiss a child support case upon finding of good cause;
- (13) Hold a pre-hearing conference;
- (14) Conduct a hearing and enter an order concerning whether a state income tax refund should be intercepted to satisfy a past due support obligation pursuant to section 231-54;
- (15) Enter an order concerning whether a responsible parent's unemployment compensation should be applied to satisfy a past due support obligation pursuant to chapter 576D;
- (16) Enter an order concerning whether a lien should be imposed on a responsible parent's personal and real property pursuant to section 576D-10.5;
- (17) Enter an order concerning whether a responsible parent should be required to post bond in order to secure payment of past due support pursuant to chapter 576D;
- (18) Enter an order concerning whether a responsible parent's child support obligation should be reported to consumer credit reporting agencies pursuant to chapter 576D;
- (19) Refer contempt proceedings to the appropriate court; and
- (20) Enter an order enforcing the collection of spousal support for a spouse or former spouse who is living with a subject child or children if a support obligation has been established by a court order for



that spouse and the child support is being enforced for the subject child or children.]

conduct hearings and enter the following orders:

- (1) Child support orders which have the effect of modifying, suspending, terminating, or enforcing the child support provisions of orders of the family courts;
  - (2) Child support orders establishing, modifying, suspending, terminating, or enforcing child support obligations;
  - (3) Orders enforcing the collection of spousal support when child support is being established, modified, or enforced;
  - (4) Income withholding orders pursuant to section 576E-16;
  - (5) Automatic income assignment orders pursuant to section 571-52.2;
  - (6) Interstate income withholding orders pursuant to section 576E-16.5;
  - (7) State income tax refund setoff orders pursuant to section 231-54;
  - (8) Orders determining whether Aid to Families with Dependent Children pass through payments were properly distributed;
  - (9) Orders determining whether a party should be required to post bond in order to secure payment of past due support pursuant to section 576D-6;
  - (10) Medical insurance coverage orders; and
  - (11) Orders in other child support areas as authorized by the attorney general.
- (d) Hearings officers shall have further authority to:
- (1) Accept voluntary acknowledgments of paternity, support liability, and stipulated agreements setting the amount of child support to be paid after application of the guidelines established under section 576D-7;
  - (2) Receive testimony and evidence from parties to the hearing and to establish a record;
  - (3) Evaluate testimony and other evidence received at hearings and make specific findings of fact and conclusions of law after contested hearings and when otherwise required by law;
  - (4) Issue subpoenas;
  - (5) Compel production of documents and witnesses;
  - (6) Dismiss a case upon a finding of good cause;
  - (7) Hold prehearing conferences;
  - (8) Examine judgment debtors;
  - (9) Refer contempt proceedings to the appropriate court.
- (e) Hearings officers shall be entitled to immunity from liability while acting in their official capacity."

SECTION 12. Section 576E-11, Hawaii Revised Statutes, is amended to read as follows:

**"§576E-11 Administrative orders; required findings.** Every order entered pursuant to this chapter shall specify, where applicable, the following:

- (1) The amount of periodic support to be paid by [the responsible parent,] a party with directions as to the manner of payment;
- (2) The amount of child support arrearage, if any, that has accrued under an existing court or administrative order;
- (3) The amount of public assistance debt, if any, accrued under section 346-37.1;

- (4) The amount of the periodic payment to be made in liquidation of such public assistance debt, if any, or child support arrearage, if any;
- (5) A statement that a party's taxes shall be set off against the amount of such public assistance debt, if any, or child support arrearage, if any;
- [(5)] (6) The extent of the [responsible parent's] party's responsibility to provide medical insurance coverage for the dependent child involved in the case, or otherwise to pay the reasonable and necessary medical expenses of the dependent child;
- [(6)] (7) [The name of the person or agency with custody of the dependent child for whom support is sought, except where a court has previously directed that such information be withheld, and the] The name and birth date of [such] the dependent child;
- [(7)] (8) A statement that the property of the [responsible parent] party is subject to collection action, including but not limited to, withholding of income, unemployment compensation, workers' compensation, and retirement benefits, seizure of property, disclosure of information relating to the [responsible parent's debt] party's debts to consumer credit reporting agencies, and federal and state tax refund [interception;] setoff;
- [(8)] (9) A statement that violations of the administrative order are punishable as contempt of court; and
- [(9)] (10) A statement notifying the [responsible parent] parties of the right to judicial review of administrative orders, and the procedure for obtaining such review."

SECTION 13. Section 576E-12, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) A copy of the order shall be served by regular mail upon [the responsible parent. A copy of the order shall also be sent to the person having custody of the dependent child.] all parties."

SECTION 14. Section 576E-15, Hawaii Revised Statutes, is amended to read as follows:

"**§576E-15 Guidelines to be followed.** When an administrative order establishes or modifies the amount of child support required to be paid by a [responsible parent,] party, the guidelines established under section 576D-7 shall be applied, except when exceptional circumstances warrant departure. The most current guidelines shall be used to calculate the amount of the child support obligation."

SECTION 17.<sup>2</sup> Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 18.<sup>2</sup> This Act shall take effect upon its approval.

(Approved June 8, 1994.)

#### Notes

1. "Who" should not be underscored.
2. So in original.

A Bill for an Act Relating to Housing.

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

SECTION 1. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

**“§36-27 Transfers from special funds for central service expenses.** Except as hereinafter provided, and notwithstanding any provisions of any other law to the contrary, there shall be deducted from time to time by the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the special summer school fund under section 298-3.5; the school cafeteria special funds of the community colleges,<sup>1</sup> and the department of education; the special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii; the housing loan program revenue bond special fund, housing project bond special fund; the state educational facilities improvement special fund; and the convention center capital and operations special fund, five per cent of all receipts of each such special fund, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers.”

SECTION 2. New statutory material is underscored.

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

(Approved June 8, 1994.)

**Note**

1. Comma should be underscored.

A Bill for an Act Relating to the Code of Financial Institutions.

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

SECTION 1. Section 412:2-309, Hawaii Revised Statutes, is amended to read as follows:

**“§412:2-309 Consent order of removal [and] or prohibition.** Any institution-affiliated party may waive its rights to a hearing on any notice of charges by stipulating and consenting to the issuance of a permanent removal or prohibition order by stipulating and consenting to the conversion of a temporary suspension order into a permanent removal or prohibition order. Any [final] permanent removal or prohibition order issued by consent shall be effective as of the date specified therein and shall remain effective until modified or terminated by the commissioner.”

SECTION 2. Section 412:2-311, Hawaii Revised Statutes, is amended by amending the title to read as follows:

“§412:2-311 Suspension[,] or revocation [or surrender] of charter or license.”

SECTION 3. Section 412:2-314, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If the Hawaii financial institution fails to correct the impairment of its capital and surplus as required, the commissioner may immediately appoint a conservator, or may close the financial institution, appoint a receiver to take possession of its assets, and proceed with the liquidation of its assets. A financial institution placed in conservatorship[,] pursuant to this subsection may, with the consent of the commissioner, later resume business upon [such] the conditions as the commissioner may approve.”

SECTION 4. Section 412:2-502, Hawaii Revised Statutes, is amended to read as follows:

“§412:2-502 Solicitation of purchasers. If the court sustains the commissioner’s determination that the financial institution is a failing financial institution, or if the institution has not contested [such] the determination and the time for petitioning the court has passed, the commissioner may solicit applications to merge with the failing financial institution or with its holding company, or to purchase all or part of the assets or assume all or part of the liabilities of the failing financial institution, or to purchase the capital stock of the failing financial institution or its holding company. [Such] The solicitation may be by private letter, by personal contact, or by publication, as in the commissioner’s discretion may be appropriate in order to obtain as many fair offers as possible with the least danger to the safety of the failing financial institution, its depositors and creditors, and the general public. The commissioner may disclose [such] information concerning the failing financial institution as shall be necessary for the prospective applicants to formulate a proposal to purchase[,] provided that the recipients of [such] the information shall be required to keep the [same] information confidential.”

SECTION 5. Section 412:2-609, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any Hawaii financial institution which, and any institution-affiliated party who:

- (1) Commits a material violation of any law or rule for which a penalty or fine is not expressly provided herein;
- (2) Commits a material violation of any order issued by the commissioner which has become effective;
- (3) Commits a material violation of any condition imposed in writing by the commissioner in connection with the grant of any application or other request by the financial institution; or
- (4) Commits a material violation of any written agreement between the financial institution and the commissioner[,];

may be ordered by the commissioner to forfeit and pay an administrative fine of not more than \$1,000 for each day during which [such] the violation continues.”

ACT 107

SECTION 6. Section 412:3-103, Hawaii Revised Statutes, is amended to read as follows:

“§412:3-103 Amendments to articles and bylaws. Upon the adoption of any amendment to the articles of incorporation or association or to the bylaws of a Hawaii financial institution, the secretary or other authorized officer of the financial institution shall file a copy of the [amended] amendment to the articles or bylaws with the commissioner, certifying that the copy is true and correct, the date the amendment was adopted, and that the amendment was duly adopted in accordance with the applicable provisions of the articles and bylaws. The [amended] articles and bylaws and any amendments thereof shall be kept on file by the division.”

SECTION 7. Section 412:3-112, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every Hawaii financial institution shall at its own expense file the following written reports with the commissioner:

- (1) An independent audit report of its financial statements as of the close of its fiscal year shall be filed by a Hawaii financial institution, other than a nondepository financial services loan company or credit union, within one hundred twenty days of the close of its fiscal year; provided that the commissioner for good cause shown may grant a reasonable extension of not more than forty-five days. For depository institutions, the report shall be conducted in accordance with the requirements of section 36 of the Federal Deposit Insurance Act (12 U.S.C. 1831m). For trust companies, the independent audit report shall contain audited financial statements prepared in accordance with generally accepted accounting principles and shall be based on an audit performed in accordance with generally accepted auditing standards, the independent auditor’s report on the fair presentation of the financial statements and any qualification to the report, any management letter, and any other report. Hawaii financial institutions that are subsidiaries of a financial institution holding company may satisfy the requirements of this paragraph by filing an independent audit report of the financial institution holding company;
- (2) Unaudited financial statements as of the following dates shall be filed by a Hawaii financial institution within thirty days of the date of the financial statement[.] as follows:
  - (A) For a nondepository financial services loan company, trust company, or credit union the statements shall be filed as of June 30 and December 31 of each year[.]; and
  - (B) For a Hawaii financial institution, other than a nondepository financial services loan company, trust company, or credit union, the statements shall be filed as of March 31, June 30, September 30, and December 31 of each year[.];provided that the commissioner for good cause shown may grant a reasonable extension of not more than forty-five days.

The reports shall be in a form prescribed by the commissioner and prepared in accordance with section 412:3-108. In the alternative, the institution may file the Call Reports, Consolidated Reports of Condition and Reports of Income, or Thrift Financial Reports as

of those dates which are submitted to the appropriate federal regulatory agency of the institution;

- (3) A notice of any change in the office of the person who has primary responsibility for the operation and management of the financial institution shall be filed by a Hawaii financial institution within ten days of the change. The notice shall specify the name and address of [such] the person, who shall be designated that institution's "chief executive officer"; and
- (4) Any other reports and other information that the commissioner may require with respect to any financial institution at the times and in the form as the commissioner deems appropriate for the proper supervision and regulation of the institution.

Each report shall be signed by an officer authorized by the institution's board of directors to sign the report, and shall contain a declaration of the officer's authority and a statement that the report is true and correct."

SECTION 8. Section 412:3-302, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The notice shall be in a form prescribed by the commissioner and shall state the fact that an application has been filed, the name of the applicant, the location of the nondepository financial services loan company's proposed place of business, and the amount of its proposed capital. The notice shall also state that within fifteen days after the last publication of the notice, any person may file with the commissioner written comments on the application [and] or a request for an informational and comment proceeding to present information and comments to the commissioner. Any request for an informational and comment proceeding shall be accompanied by a brief statement of the person's interest in the application, the matters to be discussed at the informational and comment proceeding, and the reasons why written comments will not suffice in lieu of an informational and comment proceeding."

SECTION 9. Section 412:3-501, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A Hawaii financial institution may conduct business at one or more of the following places of business, to the extent authorized:

- (1) The principal office of a Hawaii financial institution is the place of business that it designates as its executive headquarters in this State. A financial institution may, but need not, conduct other businesses permitted under its charter or license at its principal office[. The]; provided that for the purposes of this section, the terms "principal office," "home office," and "main office" are interchangeable[.];
- (2) A branch is a place of business open to the public where a financial institution shall be authorized to conduct all businesses permitted under its charter or license, except for the maintenance of its executive headquarters[.];
- (3) An agency is a place of business open to the public where a financial institution may conduct only specific businesses approved by the commissioner in writing[.];
- (4) An automatic teller machine or ATM is a place of business, either at a fixed location or mobile, consisting of an on-line or off-line,

staffed or unstaffed, electronic processing device, including associated equipment and structures, that is situated at a premises separate from a financial institution's principal<sup>1</sup> office, branch, agency, or support facility, at which deposits of cash or instruments, or cash disbursement transactions between a person and one or more financial institutions are accomplished, whether instantaneous or otherwise, through or by means of electronic or automated signals or impulses including the human voice; provided that it shall not mean a telephone or an electronic processing device situated at or within the premises of a bank customer that is used only for transactions between that customer and the financial institution. The term does not include merchant operated terminals and point of sale terminals[.]; and

- (5) A support facility is a place of business that is not generally open to the public, where a financial institution conducts limited types of significant business operations of the financial institution, including but not limited to data processing, clerical activities, and storage.”

SECTION 10. Section 412:3-600, Hawaii Revised Statutes, is amended to read as follows:

**“§412:3-600 Applicability of this part.** This part applies to:

- (1) The conversion, merger, consolidation, acquisition of the assets or assumption of the liabilities, acquisition of control, [or] voluntary cessation of business [and], or voluntary dissolution of a Hawaii financial institution;
- (2) The merger, consolidation, or acquisition of control of a financial institution holding company which controls:
  - (A) A Hawaii financial institution; and
  - (B) To the extent permitted by federal law, a federal financial institution whose operations are principally conducted in this State; and
- (3) All persons who seek to merge or consolidate with, acquire the assets or assume the liabilities of, or acquire control of:
  - (A) A Hawaii financial institution;
  - (B) A financial institution holding company which controls a Hawaii financial institution; and
  - (C) To the extent permitted by federal law, a financial institution holding company which controls a federal financial institution whose operations are principally conducted in this State.”

SECTION 11. Section 412:3-601, Hawaii Revised Statutes, is amended to read as follows:

**“§412:3-601 No conversions, mergers, consolidations, acquisitions, assumptions, [or] voluntary cessations of business, or voluntary dissolutions except pursuant to this part.** Except as modified by the commissioner’s powers under parts III, IV, and V of article 2, no Hawaii financial institution or financial institution holding company may undergo a conversion, merger, or consolidation, sell all or substantially all of its assets, be subject to any assumption of any of its liabilities or to an acquisition of control, [or] cease business [and], or dissolve except in accordance with this part.”

SECTION 12. Section 412:3-603, Hawaii Revised Statutes, is amended to read as follows:

**“§412:3-603 Procedure for applications pursuant to this part.** Whenever the written approval of the commissioner is required with respect to any transaction covered by this part, the following procedures shall apply:

- (1) An application for approval by the commissioner pursuant to this part shall be on a form prescribed by the commissioner and shall contain any information, data, and records as the commissioner may require. As far as possible consistent with the effective discharge of the commissioner's responsibilities, the commissioner shall prescribe the use of forms currently prescribed by the appropriate federal regulatory agency of financial institutions and financial institution holding companies for identical or similar types of transactions. The application shall be accompanied by an application fee established by the commissioner pursuant to section 412:2-105. The application fee shall not be refundable;
- (2) If any material change occurs in the facts set forth in an application, or if for any other reason the applicant desires to amend the application, an amendment setting forth any change, together with copies of all documents and other material relevant to the change, shall be filed with the commissioner. Within twenty days after receiving an application or any amendment thereto, the commissioner may request any additional information necessary in deciding whether to approve a proposed transaction pursuant to this part. The applicant shall submit the additional information in a reasonable time thereafter, as may be specified by the commissioner;
- (3) If the commissioner would approve a plan of conversion, merger, or consolidation, an acquisition of assets or assumption of liabilities, an acquisition of control, or a voluntary cessation of business [and] or voluntary dissolution, but on terms different than contained in the application, the commissioner may give notice to the applicant of the nature of the changes which would be approved, and the applicant may submit an amended application;
- (4) If the commissioner intends to disapprove an application, the commissioner shall deliver to the applicant a written notice of the intent to disapprove. Within ten days after receipt of the commissioner's notice of intent to disapprove an application, the applicant may request an administrative hearing, to be held in accordance with chapter 91. If no request for a hearing is made, the commissioner's disapproval shall become final. If after the hearing the commissioner finally disapproves the application, the applicant may, within thirty days of the date of the final decision, appeal to the circuit court as provided in chapter 91;
- (5) Notwithstanding any other provision of this part, any complete application which is not approved or denied by the commissioner within a period of sixty days after the application is filed with the commissioner or, if the applicant consents to an extension of the period within which the commissioner may act, within the extended period, shall be deemed to be approved by the commissioner as of the first day after the period of sixty days or the extended period. If the commissioner gives notice of an informational and comment proceeding on the application, the sixty-day period shall be extended



to a date as may be fixed by order of the commissioner. For purposes of this section, an application is deemed to be filed with the commissioner at the time when the complete application, including any amendments or supplements, containing all of the information in the form required by the commissioner, is received and accepted by the commissioner; and<sup>1</sup>

- (6) Any applicant submitting information to the commissioner pursuant to this part may request that the information, or any part thereof, be kept confidential. The request shall be made in writing and shall set forth the specific items sought to be kept confidential and the reasons and authority for the confidential treatment. The commissioner may, pursuant to a request or otherwise, determine that good cause exists to keep some or all of the information confidential, and shall keep the information confidential and not subject to public disclosure. In connection with an application for the acquisition of control pursuant to section 412:3-612, the commissioner may release information to the affected financial institution or financial institution holding company with a directive that some or all of the information be kept confidential.”

SECTION 13. Section 412:3-604, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For any transaction covered by this part which requires approval of the shareholders or members of the financial institution, the voting requirements shall be:

- (1) If a Hawaii financial institution is a stock institution, the holders of two-thirds of each class of the issued and outstanding capital stock of the financial institution entitled to vote or such greater majority as may be provided by the articles of incorporation of the Hawaii financial institution shall be required to approve any action under this part;
- (2) If a Hawaii financial institution is a mutual savings and loan association, a majority of members present in person or by proxy at any meeting shall be required to approve any action under this part; or
- (3) If a Hawaii financial institution is a credit union, a majority of members present in person at any meeting shall be required to approve any action under this part.”

SECTION 14. Section 412:3-608, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The financial institution shall file an application with the commissioner pursuant to section 412:3-603 for a charter or license to engage in the business of the type of financial institution to which it will convert. The application shall be accompanied by:

- (1) A certificate signed by two executive officers of the financial institution, verifying the validity of the meeting of the [shareholder] shareholders or members, that the requisite vote has been obtained, and that the attached copy of the resolution to convert adopted at the meeting is true and correct, or that the applicant has complied with all federal laws and regulations regarding the conversion, as the case may be;

- (2) The information required from applicants for approval to organize a Hawaii financial institution of the type into which it will convert; and
- (3) Any other information that the commissioner may require.”

SECTION 15. Section 412:3-617, Hawaii Revised Statutes, is amended to read as follows:

**“§412:3-617 Voluntary cessation of business [and]; dissolution.** (a) Except for a credit union, a solvent Hawaii financial institution whose capital is not impaired and which has not received a notice of charges and proposed suspension or revocation order pursuant to section 412:2-312 may cease its business and dissolve if the institution shall have complied with applicable federal law and the following requirements and conditions:

- (1) The board of directors shall adopt a resolution adopting a plan of liquidation and dissolution and recommending that the financial institution be dissolved, and directing that the question of the dissolution be submitted to the commissioner for approval, and, if approved, to a vote of the shareholders or members, which vote may be at either an annual or special meeting. The plan of liquidation and dissolution shall include, but not be limited to, provisions for the orderly payment or assumption of the institution’s deposits and other liabilities and for transfer or assumption of all trust, agency, and other fiduciary relationships and accounts;
- (2) Within five business days after the meeting of the board of directors described in paragraph (1) of this subsection, the financial institution shall file an application with the commissioner pursuant to section 412:3-603 for approval to cease business and dissolve. The application shall be accompanied by a copy of the plan of liquidation and dissolution certified by two executive officers of the financial institution to have been duly adopted by the board and any other information that the commissioner may require. A copy of the notice shall be delivered contemporaneously to the financial institution’s federal insurer;
- (3) The commissioner shall approve the application to cease business and dissolve if the commissioner is satisfied that the depositors, beneficiaries, and creditors will be adequately protected under the plan, the institution is not insolvent or in danger of becoming insolvent, that its capital is not impaired and is not in danger of becoming impaired, and that no other reason exists to deny the application. The commissioner may impose any restrictions and conditions as the commissioner deems appropriate;
- (4) Upon receipt of the commissioner’s approval to cease business and dissolve, the financial institution shall proceed with the dissolution in accordance with the procedures, conditions, and requirements for, and with the effect of, a voluntary dissolution by act of corporation pursuant to chapter 415, except that the vote by shareholders or members to approve the dissolution shall satisfy the requirements of section 412:3-604; and
- (5) Any financial institution whose capital is impaired or in danger of becoming impaired, and any institution which is insolvent or in danger of becoming insolvent, may not undergo a voluntary dissolution.

(b) Subject to the approval of the commissioner, a credit union may elect to dissolve voluntarily and liquidate its affairs in the manner prescribed in this section.

- (1) The board of directors shall adopt a resolution recommending the voluntary dissolution of the credit union and requesting that the liquidation question be submitted to the members;
- (2) Not later than ten days after the board of directors decides to submit the liquidation question to the members, the chairman shall notify the commissioner and any government agency or other organization insuring member accounts thereof, in writing, setting forth the reasons for the proposed liquidation. Not later than ten days after the members act on the liquidation question, the chairman<sup>1</sup> of the board of directors shall notify the commissioner and any government agency or other organization insuring member accounts, in writing, of the action of the members on the liquidation question;
- (3) As soon as the board of directors decides to submit the liquidation question to the members, all business affairs of the credit union, including, but not limited to, payments on and withdrawal of shares, share certificates, share drafts, deposits, and deposit [certificate,] certificates, the transfer of shares to loans and interest, making investments of any kind, and issuing loans, shall be suspended until the members act on the liquidation question. Upon approval by the members, all business transactions of the credit union shall be permanently discontinued. Necessary [expense] expenses of operation, however, shall continue to be paid upon authorization by the board of directors or the liquidating agent during liquidation;
- (4) An affirmative majority vote by the members by ballot, in person, by letter, or other written communication, is necessary for a credit union to enter into voluntary liquidation. Whenever authorization for liquidation is to be obtained at a meeting of the members, notice in writing shall be given to each member, by first-class mail, at least ten days prior to such meeting;
- (5) A liquidating credit union shall remain in existence for the purpose of discharging its debts, collecting its loans, distributing its assets, and any other necessary functions in order to conclude its business. A liquidating credit union may sue or be sued for the purpose of enforcing its debts and obligations until its affairs are complete;
- (6) The board of directors or the liquidating agent who may be the insurer shall use the assets of the credit union to pay:
  - (A) First, the expenses incidental to liquidation including any surety bonds required during liquidation;
  - (B) Second, any liability due to nonmembers;
  - (C) Third, the deposits and deposit certificates of the members of the credit union; and
  - (D) Fourth, the remaining assets shall be distributed to the members in proportion to the number of shares held by each member on the date dissolution was approved by the members;
- and
- (7) When the board of directors or the liquidating agent determines that all assets of the credit union having a reasonable expectancy of realization have been liquidated and distributed as provided in this section, the board or the liquidating agent, whichever is applicable,

shall complete a certificate of dissolution on a form prescribed by the commissioner. Upon the completion of such certificate, the board or the liquidating agent, whichever is applicable, shall file such certificate with the commissioner for the complete dissolution and liquidation of the credit union.

(c) Subject to the approval of the commissioner, a nondepository financial services loan company may voluntarily cease activity for which a license to operate as a financial services loan company is required by this chapter, in the manner prescribed as follows:

- (1) The board of directors shall adopt a resolution approving a plan to cease activity for which a license to operate as a financial services loan company is required. If applicable, the plan shall include but not be limited to provisions for the sale, exchange, or disposition of all loans or other business for which a financial services loan company license is required by this chapter;
- (2) The nondepository financial services loan company shall file an application with the commissioner pursuant to section 412:3-603 for approval to cease activity for which a license to operate as a financial services loan company is required. The application shall be accompanied by:
  - (A) A copy of the plan to cease activity for which a license to operate as a financial services loan company is required, certified by two executive officers of the nondepository financial services loan company, to have been duly adopted by the board;
  - (B) The information required in an application filed pursuant to section 412:3-613, if applicable; and
  - (C) Any other information that the commissioner may require;
- (3) The commissioner shall approve the application to cease activity for which a license to operate as a financial services loan company is required if:
  - (A) The commissioner is satisfied with the plan;
  - (B) The conditions for approval contained in section 412:3-613 have been met, if applicable; and
  - (C) No other reason exists to deny the application; provided that the commissioner may impose any restrictions and conditions as the commissioner deems appropriate; and
- (4) Upon receipt of the commissioner's approval, a nondepository financial services loan company that has filed a plan attesting that the company does not retain any loans or other business for which a financial services loan company license is required by this chapter, shall forthwith surrender to the commissioner all of its financial services loan company licenses. A nondepository financial services loan company that has filed a plan that includes provisions for the sale, exchange, or disposition of loans or other business, upon receipt of the commissioner's approval, shall proceed with its plan to cease activity for which a license to operate as a financial services loan company is required. Upon completion of its plan, the nondepository financial services loan company shall file a written notification with the commissioner. The written notification shall be accompanied by the surrender of all of its financial services loan company licenses.

[(c)] (d) Nothing in this section shall preclude the commissioner at any time from appointing a receiver or conservator for the financial institution pursuant to this chapter, or from seeking any relief or sanction from the circuit court that may otherwise be permitted by law.”

SECTION 16. Section 412:6-303, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The limitations set forth in this section shall not apply to:

- (1) A savings bank’s deposits with a Federal Reserve Bank, Federal Home Loan Bank, or another depository institution made in compliance with this chapter;
- (2) A savings bank’s sale of federal funds to another depository institution with a maturity of one business day or under a continuing contract;
- (3) Loans and extensions of credit secured by the interest-bearing obligations of the United States or those for which the faith and credit of the United States are distinctly pledged to provide for the payment of the principal and interest thereof or of the State or any county or municipal or political subdivision of this State, issued in compliance with the laws of this State, where the market value of the security shall be at any time not less than one hundred five per cent of the face amount of the loans and extensions of credit;
- (4) Loans and extensions of credit to the extent secured by a pledge or security interest in a deposit account in the savings bank serving as the lender; and
- (5) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable credit sales contracts which carry a partial recourse endorsement or limited guarantee by the person transferring the credit sales contract, if the savings bank’s respective file or the knowledge of its officers of the financial condition of each maker of such consumer paper is reasonably adequate, and an officer of the savings bank certifies in writing that the savings bank is relying primarily upon the responsibility of each maker for payment of such credit sales contract and not upon any partial recourse endorsement or limited guarantee by the transferor. Under these circumstances, such credit sales contract will be considered a loan and extension of credit to the maker of the credit sales contract rather than the seller of the credit sales contract.”

SECTION 17. Section 412:9-410, Hawaii Revised Statutes, is amended to read as follows:

“**§412:9-410 Deposits made by depository financial services loan companies.** A depository financial services loan company may deposit any of its funds with:

- (1) A federal reserve bank or a federal home loan bank in any amount; or
- (2) Another depository institution; provided that the deposits in any one depository institution [does] do not exceed twenty-five per cent of the depository financial services loan company’s capital and surplus, unless otherwise permitted by federal law.”

SECTION 18. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 19. This Act shall take effect upon its approval.

(Approved June 8, 1994.)

Note

1. So in original.

ACT 108

H.B. NO. 3151

A Bill for an Act Relating to the Employees' Retirement System.

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

SECTION 1. The purpose of this Act is to preserve ordinary death benefits for public school employee members of the employees' retirement system of the State of Hawaii who may not receive any salary during the interim period when transferring from a year round school schedule to a traditional school schedule.

SECTION 2. Section 88-21, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Year round school employee”: any teacher, school administrator, school health aide, educational assistant, school security attendant, or other salaried ten-month department of education employee working in a public school operating under a single-track restructured instructional schedule.”

SECTION 3. Section 88-84, Hawaii Revised Statutes, is amended to read as follows:

**“§88-84 Ordinary death benefit.** (a) Upon receipt of proper proof of a member's death in service, there shall be paid to the member's designated beneficiary an ordinary death benefit consisting of:

- (1) The member's accumulated contributions and, if no pension is payable under section 88-85, in addition thereto[,
- (2) An an amount equal to fifty per cent of the compensation earned by the member during the year immediately preceding the member's death if the member had at least one year but not more than ten full years of credited service, which amount shall increase by five per cent for each full year of service in excess of ten years, to a maximum of one hundred per cent of the compensation; provided that if the member had at least one year of credited service, the amount, together with the member's accumulated contributions shall not be less than one hundred per cent of the compensation[.]; or
- [(3)] (2) If the member had ten or more years of credited service but was ineligible for service retirement at the time of death in service, and the death occurred after June 30, 1988, the member's designated beneficiary may elect to receive in lieu of any other payment provided in this section the allowance that would have been payable to the

beneficiary under option 3 of section 88-83 and computed on the basis of section 88-76[,]; or

- [(4)] (3) If the member was eligible for service retirement at the time of death in service, the member's designated beneficiary may elect to receive in lieu of any other payments provided in this section, the allowance that would have been payable if the member had retired the day prior to death and had elected to receive a retirement allowance under option 2 of section 88-83.

(b) If the member's designation of beneficiary is void as specified in section 88-93, or if the member did not designate a beneficiary, there shall be payable:

- (1) To the surviving spouse, an allowance payable under option 3 of section 88-83 if the member had at least ten years of credited service but was ineligible for service retirement at the time of the death in service, which allowance shall be computed on the basis of section 88-76; or if the member was eligible for service retirement at the time of death in service, the allowance that would have been payable if the member had retired the day prior to death and had elected to receive a retirement allowance under option 2 of section 88-83; or a benefit as specified under subsection (a)(1) [and (2)]; or;
- (2) To the deceased member's dependent child, or children under age eighteen if there is no surviving spouse, an equally divided benefit as specified under subsection (a)(1) [and (2)]; or
- (3) To the deceased member's estate, if there is no surviving spouse or dependent child or children, a benefit as specified under subsection (a)(1) [and (2)].

(c) For the purposes of this section, a year round school employee shall be considered in service during the July and August preceding a transfer to a traditional school schedule if the employee was in service for the entire prior school year and has a contract for the upcoming traditional school year."

SECTION 4. Section 88-286, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In the case of ordinary death, the death benefit shall be as follows:

- (1) For the surviving spouse, an allowance equal to one-half of the member's accrued normal retirement allowance unreduced for age, payable to the surviving spouse until remarriage; or if the member was eligible for retirement at the time of the member's death in service, and death occurred after June 30, 1990, the surviving spouse may elect the allowance that would have been payable if the member had retired the day prior to death and had elected to receive a retirement allowance under option B and computed on the basis of section 88-283;
- (2) If there is a surviving spouse, each dependent child under age eighteen shall receive an allowance equal to ten per cent of the member's accrued normal retirement allowance unreduced for age, payable to each dependent child until the dependent child attains age eighteen; provided that the aggregate death benefits for all the dependent children shall not exceed twenty per cent of the member's accrued normal retirement allowance unreduced for age; and
- (3) If there is no surviving spouse, each dependent child under age eighteen shall receive an allowance equal to twenty per cent of the

member's accrued normal retirement allowance unreduced for age, payable to each dependent child until the dependent child attains age eighteen; provided that the aggregate death benefits for all the dependent children shall not exceed forty per cent of the member's accrued normal retirement allowance unreduced for age.

For the purpose of determining eligibility for ordinary death benefit, a year round school employee shall be considered in service during the July and August preceding a transfer to a traditional school schedule if the employee was in service for the entire prior school year and has a contract for the upcoming traditional school year."

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

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

(Approved June 8, 1994.)

## ACT 109

H.B. NO. 3152

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

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

SECTION 1. Section 209, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

**“§209. Successors to lessees.** (a) Upon the death of the lessee, the lessee's interest in the tract or tracts and the improvements thereon, including growing crops and aquacultural stock (either on the tract or in any collective contract or program to which the lessee is a party by virtue of the lessee's interest in the tract or tracts), shall vest in the relatives of the decedent as provided in this paragraph. From the following relatives of the lessee who are (1) at least one-quarter Hawaiian, husband, wife, or children, or (2) native Hawaiian, father and mother, widows or widowers of the children, grandchildren, brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews, — the lessee shall designate the person or persons to whom the lessee directs the lessee's interest in the tract or tracts to vest upon the lessee's death. The Hawaiian blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled to the leased lands or under section 3 of the Act of May 16, 1934 (48 Stat. 777, 779), as amended, or under section 3 of the Act of July 9, 1952 (66 Stat. 511, 513). In all cases that person or persons need not be eighteen years of age. The designation shall be in writing, may be specified at the time of execution of the lease with a right in the lessee in similar manner to change the beneficiary at any time and shall be filed with the department and approved by the department in order to be effective to vest the interests in the successor or successors so named.

In case of the death of any lessee, except as hereinabove provided, who has failed to specify a successor or successor as approved by the department, the department may select from only the following qualified relatives of the decedent:



## ACT 109

- (1) Husband or wife; or
- (2) If there is no husband or wife, then the children; or
- (3) If there is no husband, wife, or child, then from the following relatives of the lessee who are native Hawaiian: father and mother, widows or widowers of the children, grandchildren, brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews.

The rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of the lessee.

In the case of the death of a lessee leaving no designated successor or successors, husband, wife, children, or relative qualified to be a lessee of Hawaiian home lands, the land subject to the lease shall resume its status as unleased Hawaiian home lands and the department is authorized to lease the land to a native Hawaiian as provided in this Act.

Upon the death of a lessee who has not designated a successor and who leaves a spouse not qualified to succeed to the lease or children not qualified to succeed to the lease, or upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall appraise the value of all the improvements and growing crops or improvements and aquacultural stock, as the case may be, and shall pay to the nonqualified spouse or the nonqualified children as the lessee shall have designated prior to the lessee's death, or to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, the value thereof, less any indebtedness to the department, or for taxes, or for any other indebtedness the payment of which has been assured by the department, owed by the deceased lessee or the previous lessee. These payments shall be made out of the Hawaiian home loan fund and shall be considered an advance therefrom and shall be repaid by the successor or successors to the tract involved. If available cash in the Hawaiian home loan fund is insufficient to make these payments, payments may be advanced from the Hawaiian home general loan fund and shall be repaid by the successor or successors to the tract involved; provided that any repayment for advances made from the Hawaiian home general loan fund shall be at the interest rate established by the department for loans made from the Hawaiian home general loan fund.

[The appraisal shall be made by three appraisers, one of whom shall be named by the department, one by the previous lessee or the legal representative of the deceased lessee, as the case may be, and the third shall be selected by the two appraisers aforementioned.]

(b) The appraisal of improvements and growing crops, or stock, if any, shall be made by any one of the following methods:

- (1) By a disinterested appraiser hired by the department; provided that the previous lessee or deceased lessee's legal representative shall not be charged for the cost of the appraisal; or
- (2) By one disinterested appraiser mutually agreeable to both the department and the previous lessee or the deceased lessee's legal representative, with the cost of appraisal borne equally by the two parties; or
- (3) By not more than three disinterested appraisers of which the first shall be contracted for and paid by the department. If the previous lessee or the deceased lessee's legal representative does not agree

with the appraised value, the previous lessee or the deceased lessee's legal representative shall contract with and pay for the services of a second appraiser whose appraisal report shall be submitted to the department not later than ninety days from the date of the first appraisal report; provided that the first appraisal shall be used if the second appraiser is not hired within thirty days from the date the department transmits the first appraisal report to the previous lessee or the deceased lessee's representative. If the appraisal values are different and a compromise value between the two appraisals is not reached, a third appraisal shall be made by an appraiser appointed by the first two appraisers not later than ninety days from the date of the second appraisal report and the third appraiser shall determine the final value. The cost of the third appraisal shall be borne equally by the department and the previous lessee or the deceased lessee's legal representative.

The department may adopt rules not in conflict with this section to establish appraisal procedures, including the time period by which the department and the previous lessee or the deceased lessee's legal representative shall act on appraisal matters.

(c) If a previous lessee has abandoned the tract or tracts or cannot be located after at least two attempts to contact the previous lessee by certified mail, the department by public notice published at least once in each of four successive weeks in a newspaper of general circulation in the State shall give notice to the previous lessee that the lease will be canceled in accordance with sections 210 and 216 of this title and the department will appraise the value of the improvements and growing crops and stock, if any, if the previous lessee does not present himself or herself within one hundred and twenty days from the first day of publication of the notice. Following cancellation of the lease and appraisal of the improvements and growing crops and stock, if any, the department shall make the payout as provided in subsection (a).

[(b)] (d) After the cancellation of a lease by the department in accordance with sections 210 and 216 of this title, or the surrender of a lease by a lessee, the department [is authorized to] may transfer the lease or [to] issue a new lease to any qualified native Hawaiian regardless of whether or not [the qualified Hawaiian] that person is related in any way by blood or marriage to the previous lessee.

[(c)] (e) [Should] If any successor or successors to a tract [be] is a minor or minors, the department may appoint a guardian therefor, subject to the approval of the court of proper jurisdiction. The guardian shall be authorized to represent the successor or successors in all matters pertaining to the leasehold; provided that the guardian, in so representing [such] the successor or successors, shall comply with this title and the stipulations and provisions contained in the lease, except that the guardian need not be a native Hawaiian as defined in section 201 of this title."

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

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

(Approved June 8, 1994.)

ACT 110

H.B. NO. 3157

A Bill for an Act Relating to Community-Based Care.

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

SECTION 1. Section 346D-6, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

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

(Approved June 8, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 111

H.B. NO. 3165

A Bill for an Act Relating to Health Insurance Benefits.

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

SECTION 1. Section 431M-1, Hawaii Revised Statutes, is amended by amending the definition of "Certified substance abuse staff" to read as follows:

““Certified substance abuse staff” means professionals and paraprofessionals with current full certification as substance abuse counselors or program administrators under chapter 321[.], and physicians who hold a current American Society of Addiction Medicine certificate.”

SECTION 2. Section 431M-4, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The covered benefit under this chapter shall not be less than thirty days of in-hospital services per year. Each day of in-hospital services may be exchanged for two days of nonhospital residential services, two days of partial hospitalization services, or two days of day treatment services. Physician or psychologist visits shall not be less than thirty visits per year to hospital or nonhospital facilities or to mental health outpatient facilities for day treatment or partial hospitalization services. Each day of in-hospital services may also be exchanged for two outpatient visits under this chapter; provided that the patient’s condition is such that hospitalization would become imminent if outpatient services were interrupted and the outpatient services would reasonably preclude hospitalization. [In addition, the] The covered benefit for outpatient services under this chapter shall not be less than twelve visits per year. The covered benefit under this chapter shall apply to any of the services in [subsections] subsection (b) or (c). In the case of alcohol and drug dependence benefits, the insurance policy may limit the number of treatment episodes but may not limit the number to less than two treatment episodes per lifetime.

(b) Alcohol and drug dependence benefits[.] shall be as follows:

(1) Detoxification services as a covered benefit under this chapter shall be provided either in a hospital or in a nonhospital facility which has

a written affiliation agreement with a hospital for emergency, medical, and mental health support services. The following services shall be covered under detoxification services:

- (A) Room and board;
- (B) Diagnostic x-rays;
- (C) Laboratory testing; and
- (D) Drugs, equipment use, special therapies, and supplies.

Detoxification services shall be included as part of the covered in-hospital services, but shall not be included in the treatment episode limitation, as specified in subsection (a)[.];

- (2) Alcohol or drug dependence treatment through in-hospital, nonhospital residential, or day treatment substance abuse services as a covered benefit under this chapter shall be provided in a hospital or nonhospital facility. Before a person qualifies to receive benefits under this subsection, a licensed physician or psychologist certified pursuant to chapter 321 shall determine that the person suffers from alcohol or drug dependence or both. The substance abuse services covered under this paragraph shall include those services which are required for licensure and accreditation, and shall be included as part of the covered in-hospital services as specified in subsection (a). Excluded from alcohol or drug dependence treatment under this subsection are detoxification [services,] services and educational programs to which drinking or drugged drivers are referred by the judicial system, and services performed by mutual self-help groups[.]; and
- (3) Alcohol or drug dependence outpatient services as a covered benefit under this chapter shall be provided under an individualized treatment plan approved by a licensed physician or psychologist certified pursuant to chapter 321 and must be reasonably expected to produce remission of the patient's condition. Services covered under this paragraph shall be included as part of the covered outpatient services as specified in subsection (a)."

SECTION 3. Act 202, Session Laws of Hawaii 1988, is amended by amending section 2 to read as follows:

"SECTION 2. **Evaluation.** The department of health shall consult with insurance commissioner and with all interested parties, to include the board of medical examiners, the board of psychology, and representatives of insurance carriers, nonprofit mutual benefit associations, health maintenance organizations, public and private providers, consumers, employers and labor organizations, and state agencies which implement policies under the authority of this Act, to gather information to report to the [1991] 1996 and [1994] 1998 sessions of the legislature. The purpose of the information shall be to:

- (1) Describe the extent to which the options under this Act have been exercised;
- (2) Identify savings and expenses attributable to the exercise of the options;
- (3) Identify problems which interfere with or arise from exercise of the options, and evaluate alternative solutions to such problems; and
- (4) Recommend and describe desirable characteristics of other approaches to cost containment which may be appropriate for legislative action."

## ACT 112

SECTION 4. Act 202, Session Laws of Hawaii 1988, is amended by amending section 3 to read as follows:

“SECTION 3. This Act shall take effect on July 1, 1989; provided that insurance or health or service plan contracts shall be amended to reflect the provisions required under this Act at the first anniversary date following the effective date, but no later than July 1, 1990; provided further that section -6 shall take effect upon the approval of this Act; and provided further that this Act shall be repealed on July 1, [1994.] 1998.”

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

SECTION 6. This Act shall take effect on July 1, 1994.

(Approved June 8, 1994.)

## ACT 112

H.B. NO. 3169

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Chapter 383, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§383- Worker profiling.** The department shall establish and utilize a system of profiling all new claimants for regular compensation in compliance with Section 4 of the Unemployment Compensation Amendments of 1993 (P.L. 103-152) that:

- (1) Identifies which claimants will be likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;
- (2) Refers claimants identified pursuant to paragraph (1) to reemployment services, such as job search assistance services, available under any state or federal law;
- (3) Collects follow-up information relating to the services received by these claimants and the employment outcomes for these claimants subsequent to receiving the services, and utilizes this information in making identifications pursuant to paragraph (1); and
- (4) Meets other requirements that the Secretary of Labor deems appropriate.”

SECTION 2. Section 383-7, Hawaii Revised Statutes, is amended to read as follows:

“**§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:
  - (A) Which, during each calendar quarter in both the current and the preceding calendar years, paid less than \$20,000 in cash

- remuneration to individuals employed in agricultural labor;  
and
- (B) Which had, in each of the current and the preceding calendar years:
- (i) No more than nineteen calendar weeks, whether consecutive or not, in which agricultural labor was performed by its employees; or
  - (ii) No more than nine 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 to [such] the individual by an employing unit for [such] the service is less than \$225, and if the total cash remuneration paid to all individuals by an employing unit for [such] the service is less than \$1,000 in each calendar quarter in both the current and preceding calendar years;
- (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] On each of some twenty-four days during the quarter the individual performs [such] the service for some portion of the day[.]; or
  - (B) [the] The individual was regularly employed (as determined under [clause] subparagraph (A)[)]<sup>1</sup> by the employing unit in the performance of [such] the 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] 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] The service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employing unit which had in its employ one or more individuals performing

the service for some portion of a day in each of twenty calendar weeks all occurring, whether consecutive or not, in either the current or the preceding calendar year[.]; and

- (iii) [service] 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 the individual's son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of the child's 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] apply to [such] those instrumentalities, and to services performed for [such] those 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] those instrumentalities with respect to [such] that 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] the service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;
- (8) Service with respect to which unemployment compensation is payable under an unemployment system established by an act of Congress;
- (9) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the federal Internal Revenue Code (other than an organization described in section 401(a) or under section 521 of such Code), if:
  - (i) [the] The remuneration for [such] the service is less than \$50[.]; or
  - (ii) [the] The service is performed by a fully ordained, commissioned, or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of duties required by [such] the order;
- (B) Service performed in the employ of a school, college, or university, if [such] the service is performed by a student who is

- enrolled and is regularly attending classes at [such] the 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] four-year 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 salesperson, if all [such] service performed by [such] the individual for [such] the employing unit is performed for remuneration solely by way of commission;
  - (18) Service performed by a registered sales representative for a registered travel agency, when [such] the service performed by the individual for the travel agent is performed for remuneration by way of commission;
  - (19) Service performed by a vacuum cleaner salesperson for an employing unit, if all [such] services performed by the individual for [such] the employing unit are performed for remuneration solely by way of commission;



- (20) [Services] Service performed for a [family owned] family-owned private corporation organized for profit that employs only members of the family who each own at least fifty per cent of the shares [each] issued by the corporation, provided that:
- (A) The private corporation elects to be excluded from coverage under this chapter;
  - (B) The election for exclusion shall apply to all shareholders and under the same circumstances;
  - (C) No more than two members of a family may be eligible per entity for exclusion under this [[]paragraph[]];
  - (D) The exclusion shall be irrevocable for five years;
  - (E) The family-owned private corporation [present] presents to the department proof that it has paid federal unemployment insurance taxes as required by federal law; and
  - (F) The election to be excluded from coverage shall be effective the first day of the calendar quarter in which the application and all substantiating documents requested by the department are filed with the department[.];

and

- (21) Service performed by a direct seller as defined in section 3508 of the Internal Revenue Code of 1986.

None of the foregoing exclusions (1) to [(20)] (21) 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 3. 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 finds that:

- (1) Claim. The individual has made a claim for benefits with respect to that week in accordance with rules the department may prescribe.
- (2) Registration. The individual has registered for work at, and thereafter continued to report at, an employment office in accordance with rules the department may prescribe, except that the department, by rule, may waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to other types of cases or situations with respect to which it finds that compliance with those requirements would be oppressive, or would be inconsistent with the purpose of this chapter; provided that no such rule shall conflict with section 383-21.
- (3) Availability. The individual 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 the 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 the illness and disability has been offered the claimant.

- (4) Waiting period. The individual has been unemployed for a waiting period of one week within the individual's benefit year. No week shall be counted as a waiting period:
- (A) If benefits have been paid with respect thereto;
  - (B) Unless the individual was eligible for benefits with respect thereto as provided in this section and section 383-30, except for the requirements of this paragraph.
- (5) Wages for insured work; weeks of employment.
- (A) In the case of an individual whose benefit year begins on or after January 2, 1966, but prior to October 1, 1989, the individual has had during the individual's base period a total of fourteen or more weeks of employment as defined in section 383-1 and has been paid wages for insured work during the individual's base period in an amount equal to at least thirty times the individual's weekly benefit amount as determined under section 383-22(b). For the purposes of this subparagraph, wages for insured work shall include wages paid for services:
    - (i) Which were not employment, as defined in section 383-2 or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
    - (ii) Which are agricultural labor as defined in section 383-9 except service excluded under section 383-7(1), or are domestic service except service excluded under section 383-7(2); except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of those services.
  - (B) In the case of an individual whose benefit year begins on and after October 1, 1989 to January 4, 1992, the individual has been employed as defined in section 383-2 and has been paid wages for insured work during the individual's base period in an amount equal to not less than thirty times the individual's weekly benefit amount, as determined under section 383-22(b), and the individual has been paid wages for insured work during at least two quarters of the individual's base period; provided that no otherwise eligible individual who established a prior benefit year under this chapter or the unemployment compensation law of any other state, shall be eligible to receive benefits in a succeeding benefit year until, during the period following the beginning of the prior benefit year, that individual worked in covered employment for which wages were paid in an amount equal to at least five times the weekly benefit amount established for that individual in the succeeding benefit year.
  - (C) In the case of an individual whose benefit year begins after January 4, 1992, the individual has been employed as defined in section 383-2 and has been paid wages for such insured work during the individual's base period in an amount equal to not less than twenty-six times the individual's weekly benefit amount, as determined under section 383-22(b), and the individual has been paid wages for insured work during at least two quarters of the individual's base period; provided that no

otherwise eligible individual who established a prior benefit year under this chapter or the unemployment compensation law of any other state, shall be eligible to receive benefits in a succeeding benefit year until, during the period following the beginning of the prior benefit year, that individual worked in covered employment for which wages were paid in an amount equal to at least five times the weekly benefit amount established for that individual in the succeeding benefit year.

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

(6) Worker profiling. Effective November 24, 1994, an individual who has been referred to reemployment services pursuant to the profiling system under section 383- participates in those services or in similar services. The individual may not be required to participate in reemployment services if the department determines the individual has completed those services, or there is justifiable cause for the claimant's failure to participate in those services.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

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

(Approved June 8, 1994.)

Notes

- 1. So in original.
- 2. Edited pursuant to HRS §23G-16.5.

ACT 113

H.B. NO. 3170

A Bill for an Act Relating to Small Boat Harbors.

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

SECTION 1. Section 200-13, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Owners of vessels that fail the marine inspection may contest the inspection before an arbitration board of three inspectors approved by the department [and the original inspector]. The inspector who performed the original inspection shall not be a member of the arbitration board.”

SECTION 2. Section 200-16, Hawaii Revised Statutes, is amended to read as follows:

“**[[§200-16]] Mooring of unauthorized vessel in state small boat**

**harbors and offshore mooring areas; impoundment and disposal proceedings.**

(a) No person shall moor a vessel in a state small boat harbor or offshore mooring area without obtaining a use permit; nor shall a person continue to moor a vessel in any state small boat harbor or offshore mooring area if the use permit authorizing the vessel to moor has expired or otherwise been terminated. A vessel moored without a use permit or with a use permit that has expired or been terminated is an unauthorized vessel and is subject to [subsections (b) to (d)] this section.

(b) The department shall cause to be placed upon, or as near to the unauthorized vessel as possible, a notice to remove vessel, which shall indicate that the vessel is in violation of this section, the date and time the notice was posted, and that the vessel must be removed within seventy-two hours from the time the notice was posted.

(c) An unauthorized vessel may be impounded by the department at the sole cost and risk of the owner of the vessel, if the vessel is not removed after the seventy-two hour period or if during that period the vessel is removed and reentered in the harbor or mooring or anchorage area or any other state harbor or mooring or anchorage area without a use permit.

(d) Custody of an unauthorized vessel shall be returned to the person entitled to possession upon payment to the department of all fees and costs due, and fines levied by the department or a court. In addition, the department, within seventy-two hours of impoundment, shall send by certified mail, return receipt requested, a notice of impoundment to the registered owner or operator of the impounded vessel. The owner or operator of the impounded vessel shall have ten days after receipt of notice of impoundment of the vessel to request in writing an administrative hearing. This administrative hearing is solely for the purpose of allowing the owner or operator of an impounded vessel to contest the basis given by the department for the impoundment of the vessel. The hearing must be held within [seventy-two hours] five working days of the department's receipt of the written request. The chairperson shall adopt rules pursuant to chapter 91 to implement the requirement for this post-seizure administrative hearing process.

(e) Any unauthorized vessel impounded under this section, which remains unclaimed for more than thirty days by the registered owner or a lien holder, may be sold by the department at public auction. If the department is unable to sell the vessel at public auction, or if its appraised value is less than \$250 as determined by an independent appraiser with at least one year of experience in the sale and purchase of vessels, the department may sell the vessel by negotiation, retain and use the vessel, donate it to any other government agency, or dispose of it as junk."

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

SECTION 4 This Act shall take effect upon its approval.

(Approved June 8, 1994.)

**ACT 114**

H.B. NO. 3176

A Bill for an Act Relating to Public Lands.

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

SECTION 1. Section 171-36, Hawaii Revised Statutes, is amended by

**ACT 115**

amending subsection (b) to read as follows:

“(b) The board, from time to time, upon the issuance or during the term of any intensive agricultural, aquaculture, commercial, mariculture, [or] special live-stock, or industrial lease, may: (1) modify or eliminate any of the [foregoing] restrictions[;] specified in subsection (a); (2) extend or modify the fixed rental period of the lease; or (3) extend the term of the lease to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with the Federal Housing Administration, Federal National Mortgage Association, Department of Veterans [Administration,] Affairs, Small Business Administration, Farmers Home Administration, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or any other federal mortgage lending agency qualified to do business in the State, and their respective successors and [assigns] assignees, or to qualify the lessee for any state or private lending institution loan, private loan guaranteed by the State, or any loan in which the State and any private lender participates; provided that the private lender shall be qualified to do business in the State; provided further that the approval of any extension shall be subject to the following:

- (1) The demised premises have been used substantially for the purpose for which they were originally leased;
- (2) The aggregate of the initial term and any extension granted shall not be for more than fifty-five years;
- (3) The rental shall not be less than the rental for the preceding term; and
- (4) The rules of the board, setting forth any additional terms and conditions, which shall [insure] ensure and promote the purposes of the demised lands.”

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

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

(Approved June 8, 1994.)

**ACT 115**

H.B. NO. 3190

A Bill for an Act Relating to the Public Disclosure of Written Opinions by the Department of Taxation.

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

SECTION 1. The purpose of this Act is to open to public inspection written opinions of the department of taxation that interpret the tax laws, while at the same time maintaining the confidentiality of tax return information.

The viability of Hawaii’s tax system depends upon the voluntary disclosure of information to the taxing authorities. The legislature finds that it is necessary to keep information disclosed by taxpayers confidential in order to maintain voluntary compliance with the tax laws. At the same time, the legislature finds that correct reporting can be enhanced by issuing guidance to taxpayers in areas

where the interpretation of the tax laws is unclear. Accordingly, this Act makes available to the public written opinions of the department in areas where the law is unclear.

This Act does not open to public inspection the voluminous routine correspondence with taxpayers concerning established principles of law. This Act is an exception to the well-established principle of confidentiality of tax information and thus, it is narrowly tailored to achieve its purpose to provide guidance on the interpretation of tax laws in order to enhance correct reporting, while maintaining the confidentiality of tax return information in order to maintain voluntary compliance with the tax laws. To protect the integrity of the voluntary disclosure system, doubts about whether information should be publicly disclosed shall be resolved in favor of nondisclosure.

SECTION 2. Chapter 231; Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§231- Public inspection and copying of written opinions.** (a) Written opinions shall be open to public inspection and copying as provided in this section, notwithstanding sections 235-116, 236D-15, 237-34, and 237D-13 and any other law restricting disclosure of tax returns or tax return information to the contrary. Except as provided in subsection (f), regarding the disclosure of the text of written opinions, chapter 92F shall not apply to tax returns and tax return information.

A written opinion may not be used or cited as precedent unless otherwise provided by department rules.

(b) For purposes of this section, the term “written opinion” means a written statement issued by the department to a taxpayer, or to the taxpayer’s authorized representative on behalf of the taxpayer, that interprets and applies any provision in title 14 administered by the department to a specific set of facts. A written opinion generally recites the relevant facts, sets forth the applicable provisions of law, and shows the application of the law to the facts. A written opinion shall not include:

- (1) Any written communication from the department to any person in connection with the examination or audit of any person’s tax return, or in connection with collection activities relating to any person’s delinquent tax liability;
- (2) An information letter, which is a written statement issued by the department that provides general information by calling attention to a well-established interpretation or principle of tax law, whether or not it applies to a specific set of facts. An information letter may be issued when the nature of the request from the taxpayer suggests that the taxpayer is seeking general information, or where the department believes that general information will assist the taxpayer; or
- (3) A determination letter, which is a written statement issued by the department that applies an interpretation or principle of tax law clearly established by statute, rule, written opinion, or published court decision to a particular set of facts. A determination letter includes the grant or denial of consent, permission, exemption or registration, or a routine correspondence in response to taxpayer inquiries. A determination letter shall be designated as such, and

shall indicate the clearly established interpretation or principle applied and its source.

(c) Before making a written opinion available for public inspection and copying under subsection (a), the department where possible shall segregate from the opinion trade secrets or other confidential, commercial, and financial information, and identifying details such as the name, address, and social security or tax identification number of the person to whom the written opinion pertains and of any other person identified in the written opinion. Segregated text shall not be disclosed under this section.

(d) Upon issuance of any written opinion, the department shall mail a notice of intention to disclose the opinion together with a copy of the opinion showing the text the department proposes to segregate to any person to whom the written opinion pertains (or any known successor in interest, personal representative, or other person authorized by law to act for or on behalf of such person).

(e) Except as otherwise provided in subsection (h), a written opinion, as segregated under subsection (c), shall be open to public inspection and copying no earlier than seventy-five days, and no later than ninety days, after the department's notice of intention to disclose is mailed. At the written request of a person to whom the written opinion pertains (or a successor in interest, personal representative, or other person authorized by law to act for or on behalf of the person), the preceding period may be extended, but the department shall make the written opinion available for inspection and copying no later than one-hundred-eighty days after the notice to disclose is mailed, including extensions.

(f) The department's decision as to what constitutes a written opinion is final. A decision concerning the disclosure of the text of written opinions may be contested, but only in the manner and within the time set forth in this subsection. Any person who meets the requirements of paragraph (1) or (2) and who has exhausted the administrative remedies as prescribed by rules adopted by the department may appeal within sixty days of the date of the department's decision to the office of information practices in accordance with procedures established by the office of information practices under sections 92F-15.5 and 92F-42(1). The office of information practices may examine the written opinion at issue, in camera, to assist in determining whether it, or any part of it, may be withheld. In determining whether information constitutes a trade secret or other confidential, commercial, and financial information, the office of information practices may consider and apply, in addition to any other relevant sources, interpretations of those terms under chapter 92F.

Only the following persons may contest a decision of the department concerning the disclosure of written opinions:

- (1) Any person:
  - (A) To whom a written opinion pertains (or a successor in interest, personal representative, or other person authorized by law to act for or on behalf of the person);
  - (B) Who has a material interest in maintaining the confidentiality of any written opinion or portion thereof; and
  - (C) Who disagrees with a decision by the department not to segregate information from any written opinion; or
- (2) Any person who is aggrieved by the department's denial of a request to inspect and copy any written opinion or portion thereof.

Any person aggrieved by a decision of the office of information practices may appeal the decision to the circuit court of the first judicial circuit, or of the

judicial circuit in which the request for the written opinion is made or in which a copy of the written opinion is maintained by the department. The appeal shall be filed within thirty days after the date of the decision of the office of information practices. The circuit court shall hear the matter de novo. Opinions and ruling of the office of information practices shall be admissible. The circuit court may examine the written opinion at issue, in camera, to assist in determining whether it, or any part of it, may be withheld.

Any person advocating nondisclosure or segregation under paragraph (1) shall have the burden of proof and persuasion, but any person under paragraph (2) need only establish the denial of a request and the department shall have the burden of proof and persuasion to justify the denial of the request to inspect and copy.

(g) Except for cases the circuit court considers of greater importance, proceedings before the court, as authorized by this section, and appeals therefrom, shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(h) Upon appeal to the office of information practices or a court under subsection (f), the written opinion at issue shall not be made available for public inspection and copying pending the final decision in the case. If the final decision in the case determines that the written opinion subject to the appeal shall be open and available to public inspection and copying, or that confidential or identifying information must be segregated, then the department shall make the written opinion available for public inspection and copying not later than thirty days after the decision becomes final. The office of information practices or the court may extend this thirty-day period for such time as the office of information practices or the court finds necessary to allow the department to comply with its decision.

(i) The department shall compile yearly an index in such form as the department determines of all written opinions issued during the preceding calendar year. Copies of the index shall be furnished upon the payment of 50 cents a page. Copies of written opinions shall be furnished upon the payment of \$1 a page.

(j) Except as provided in this section, written opinions shall remain subject to all laws governing tax returns and tax return information and the department shall not be required by any court to disclose any written opinion except as specifically authorized by title 14.

(k) No officer or employee of the department shall be in violation of any law prohibiting the disclosure of tax returns or tax return information, or in violation of any other law restricting the disclosure of information, due to the release of any written opinion pursuant to this section.

(l) The department may adopt rules pursuant to chapter 91 to implement this section."

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval and shall apply to written opinions dated after December 31, 1994.

(Approved June 8, 1994.)

#### Note

1. Edited pursuant to HRS §23G-16.5.



A Bill for an Act Relating to the General Excise Taxation of Employee Benefit Plans.

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

SECTION 1. Section 237-24.3, Hawaii Revised Statutes, is amended to read as follows:

**“§237-24.3 Additional amounts not taxable.** In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

- (1) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of this State. The terms “agricultural commodity”, “producer”, and [“producer dealer”] “produce dealer” shall be defined in the same manner as they are defined in section 147-1; provided that agricultural commodities need not have been produced in the State;
- (2) Amounts received from sales of:
  - (A) Intoxicating liquor as the term “liquor” is defined in chapter 244D;
  - (B) Cigarettes and tobacco products as defined in chapter 245; and
  - (C) Agricultural, meat, or fish products grown, raised, or caught in Hawaii, [when such sales are made] to any person or common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state [by such person, crew, or passengers] on [such] the shipper’s vessels or airplanes;
- (3) Amounts received by the manager or board of directors of:
  - (A) An association of apartment owners of a condominium property regime established in accordance with chapter 514A; or
  - (B) A nonprofit homeowners or community association incorporated in accordance with chapter 415B or any predecessor thereto and existing pursuant to covenants running with the land,  
in reimbursement of sums paid for common expenses;
- (4) Amounts received or accrued from:
  - (A) The loading or unloading of cargo from ships, barges, vessels, or aircraft, whether or not the ships, barges, vessels, or aircraft travel between the State and other states or countries or between the islands of the State;
  - (B) Tugboat services including pilotage fees [where such services are] performed within the State, and the towage of ships, barges, or vessels in and out of state harbors, or from one pier to another; and
  - (C) The transportation of pilots or governmental officials to ships, barges, or vessels offshore; rigging gear; checking freight and similar services; standby charges; and use of moorings and running mooring lines;
- (5) Amounts received by an employee benefit plan by way of contributions, dividends, interest, and other income; and amounts received by a nonprofit organization or office, as payments for costs and

expenses incurred for the administration of an employee benefit plan[.]; provided that this exemption shall not apply to any gross rental income or gross rental proceeds received after June 30, 1994, as income from investments in real property in this State; and provided further that gross rental income or gross rental proceeds from investments in real property received by an employee benefit plan after June 30, 1994, under written contracts executed prior to July 1, 1994, shall not be taxed until the contracts are renegotiated, renewed, or extended, or until after December 31, 1998, whichever is earlier. For the purposes of this paragraph, "employee benefit plan" means any plan as defined in section 1002(3) of title 29 of the United States Code, as amended;

- (6) Amounts received for purchases made with United States Department of Agriculture food coupons under the federal food stamp program, and amounts received for purchases made with United States Department of Agriculture food vouchers under the Special Supplemental Foods Program for Women, Infants and Children;
- (7) Amounts received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual[. This]; provided that this paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices. As used in this [section:] paragraph:
  - (A) "Prescription drugs" are those drugs defined under section 328-1(4) and dispensed by filling or refilling a written or oral prescription by a practitioner licensed under law to administer the drug and sold by a licensed pharmacist under section 328-16 or practitioners licensed to administer drugs[.]; and
  - (B) "Prosthetic device" means any artificial device or appliance, instrument, apparatus, or contrivance, including their components, parts, accessories, and replacements thereof, used to replace a missing or surgically removed part of the human body, which is prescribed by a licensed practitioner of medicine, osteopathy, or podiatry and which is sold by [such] the practitioner or which is dispensed and sold by a dealer of prosthetic devices; provided that "prosthetic device" shall not mean any auditory, ophthalmic, dental, or ocular device or appliance, instrument, apparatus, or contrivance;
- (8) Taxes on transient accommodations imposed by chapter 237D and passed on and collected by operators holding certificates of registration under that chapter; [and]
- (9) Amounts received as dues by an unincorporated merchants association from its membership for advertising media, promotional, and advertising costs for the promotion of the association for the benefit of its members as a whole and not for the benefit of an individual member or group of members less than the entire membership; and
- (10) Amounts received by a labor organization for real property leased to:
  - (A) A labor organization; or
  - (B) A trust fund established by a labor organization for the benefit of its members, families, and dependents for medical or hospital care, pensions on retirement or death of employees,

**ACT 117**

apprenticeship and training, and other membership service programs.

As used in this paragraph, "labor organization" means a labor organization exempt from federal income tax under section 501(c)(5) of the Internal Revenue Code, as amended."

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

SECTION 3. This Act shall take effect on July 1, 1994.

(Approved June 8, 1994.)

**ACT 117**

H.B. NO. 3195

A Bill for an Act Relating to Commercial Harbors.

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

SECTION 1. Section 266-27, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Custody of an impounded vessel shall be returned to the person entitled to possession upon payment to the department of all fees and costs due, and fines levied by a court. In addition, the department, within seventy-two hours of impoundment, shall send by certified mail, return receipt requested, a notice of impoundment to the registered owner or operator of any impounded vessel. The owner or operator of an impounded vessel shall have ten days after receipt of notice of impoundment of the vessel to request in writing an administrative hearing. This administrative hearing is solely for the purpose of allowing the owner or operator of an impounded vessel to contest the basis given by the department for the impoundment of the vessel. The administrative hearing must be held within [seventy-two hours] five days of the department's receipt of the written request[.], excluding Saturdays, Sundays, and holidays designated under section 8-1. The department shall adopt rules pursuant to chapter 91 to implement the requirement for this post-seizure administrative hearing process."

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

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

(Approved June 8, 1994.)

**ACT 118**

H.B. NO. 3199

A Bill for an Act Relating to Outdoor Advertising.

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

SECTION 1. Section 445-112, Hawaii Revised Statutes, is amended to

read as follows:

**“§445-112 Where and when permitted.** No person shall erect, maintain, or use a billboard or display any outdoor advertising device, except as [herein] provided[:] in this section:

- (1) The display of official notices and signs, posted by order of any court or public office, or posted by any public officer in the performance of a public duty, or posted by any person required to do so by any [statute or ordinance] law or rule having the force of law.
- (2) Any outdoor advertising device announcing a meeting or series of meetings is not prohibited by this section if displayed on the premises where the meeting or series of meetings will be or is being held. Meeting, as used in this section, includes all meetings regardless of whether open to the public or [not, or whether] conducted for profit [or not,] and[, including] includes but is not limited to[,] sports events, conventions, fairs, rallies, plays, lectures, concerts, motion pictures, dances, and religious services.
- (3) Any outdoor advertising device indicating that the building or premises on which it is displayed is the residence, office, or place of business, commercial or otherwise, of any individual, partnership, joint venture, association, club, or corporation, and stating the nature of the business.
- (4) Any outdoor advertising device [which] that advertises property or services [which] that may be bought, rented, sold, or otherwise traded in on the premises or in the building on which the outdoor advertising device is displayed.
- (5) The offering for sale of merchandise bearing incidental advertising, including books, magazines, and newspapers, in any store, newsstand, vending machine, rack, or other place where such merchandise is regularly sold.
- (6) Any outdoor advertising device offering any land, building, or part of a building for sale or rent, if displayed on the property so offered[,] or on the building of which part is so offered.
- (7) Any outdoor advertising device carried by persons or placed upon vehicles used for the transportation of persons or goods.
- (8) Any outdoor advertising device warning the public of dangerous conditions [which] that they may encounter in nearby sections of streets, roads, paths, public places, power lines, gas and water mains, or other public utilities.
- (9) Signs serving no commercial purpose[, which] that indicate places of natural beauty, or of historical or cultural interest[,] and that are made according to designs approved by the department of business, economic development, and tourism.
- (10) Any outdoor advertising device or billboard erected, placed, or maintained upon a state office building, if erected, placed, or maintained by authority of a state agency, department, or officer for the sole purpose of announcing cultural or educational events within the State, and if the design and location thereof has been approved by the department of business, economic development, and tourism.
- (11) Signs urging voters to vote for or against any person or issue, if erected not more than forty-five days before, and removed not less than ten days after, the election in which the person is a candidate or in which the issue is to be voted upon.

- (12) Signs stating that a residence [which] that is offered for sale, lease, or rent is open for inspection at the actual time the sign is displayed and showing the route to the residence[.]; provided that the sign contains no words or designs other than the words "Open House[.]", the address of the residence, the name of the person or agency responsible for the sale, and an arrow or other directional symbol[,] and is removed during such time as the residence is not open for inspection.
- (13) The erection, maintenance, and use of billboards if the billboard is used solely for outdoor advertising devices not prohibited by this section.
- (14) The continued display and maintenance of outdoor advertising devices actually displayed on July 8, 1965, in accordance with all laws and ordinances immediately theretofore in effect.
- (15) The continued maintenance of any billboard actually maintained on July 8, 1965, and the display thereon of the same or new advertising devices, all in accordance with all laws and ordinances in effect immediately prior to July 9<sup>1</sup>, 1965.
- (16) Any outdoor advertising device displayed with the authorization of the University of Hawaii on any scoreboard of any stadium owned by the university. An outdoor advertising device displayed under this paragraph shall be on the front of the scoreboard and face the interior of the stadium.
- (17) [Until September 1, 1986, any] Any temporary outdoor advertising device attached to or supported by the structure of any stadium owned by the University of Hawaii, located within and facing the interior of the stadium, and authorized to be displayed by the university. For the purpose of this paragraph, "temporary" means displayed for a short period before the official start of organized athletic competition, during the organized athletic competition, and for a short period after the official end of the organized athletic competition[.]; and
- (18) Any outdoor advertising device displayed with the authorization of the stadium authority on any scoreboard of any stadium operated by the stadium authority. An outdoor advertising device displayed under this paragraph shall be on the front of the scoreboard and face the interior of the stadium."

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

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

(Approved June 8, 1994.)

Note

1. Prior to amendment "July 8" appeared here.

A Bill for an Act Relating to Voter Registration.

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

SECTION 1. Section 11-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The clerk, not later than 4:30 p.m. on the sixtieth day after every general election, shall remove the name of any registered voter who did not vote [in the election if the person also did not vote in the preceding primary election] in that general election, and also did not vote in the primary election preceding that general election, and also did not vote in the previous general election, and also did not vote in the primary election preceding that general election, and also did not vote in the regularly scheduled special elections held in conjunction with those primary and general elections, if any, with the exception of:

[(1) Those who voted in the special election for election of members of the board of trustees of the office of Hawaiian affairs held in conjunction with the general election;

(2)] (1) Those who submitted written requests for absentee ballots as provided in section 15-4; or

[(3)] (2) Anyone who preregistered pursuant to section 11-12(b).

If a person voted, at least once, in any of the above-mentioned elections, the person's name shall remain on the list of registered voters. For this purpose “vote” means the depositing of the ballot in the ballot box whether the ballot is blank or later rejected for any reason. In the case of voting machines “vote” means the voter has activated the proper mechanism and fed the vote into the machine.

[The clerk shall remove the name of any person registered to vote in the special election for election of members of the board of trustees of the office of Hawaiian affairs, who did not vote in the special election, did not vote in the general election held in conjunction with the special election, and did not vote in the preceding primary election.]”

SECTION 2. Section 11-20, Hawaii Revised Statutes, is amended to read as follows:

“**§11-20 Transfers; name changes; initiated by clerk.** (a) 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 any 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 the information the clerk shall give reasonable notice and time for furnishing the information.

(b) If the clerk has evidence indicating that a voter's registration should be transferred, the clerk shall notify the person by first-class mail of the intent to transfer registration. The notification 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) Any alleged new address, precinct, and district;

## ACT 120

- (4) A reply form which shall contain a space for the voter's agreement or objection to the transfer, the reasons for the objection and space for the voter's signature;
- (5) Notice that unless the completed form is returned not later than 4:30 p.m. on the fifteenth day after mailing, the transfer shall be processed.

(c) A voter may contest the transfer on or before election day by presenting evidence that the voter 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.

(d) Notwithstanding section 11-24, the clerk may, at any time, transfer a voter's registration when notice of a change of address is received by registration affidavit or other form or means approved by the chief election officer."

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

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

(Approved June 8, 1994.)

## ACT 120

H.B. NO. 3255

A Bill for an Act Relating to Motor Vehicles.

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

SECTION 1. The steady decline of the sugar industry has threatened the economic stability of the entire Hamakua Coast on the island of Hawaii. As a result, the social structure of the community is at risk of collapse. Committed to working together to save their community, Hilo-Hamakua residents have focused their collective efforts to, among other things, offering training programs and identifying employment opportunities for dislocated sugar workers. To date, progress has been made in attracting new employment opportunities to the Hamakua Coast, and there is significant potential for the creation of additional jobs in the immediate future.

One potential job generator for the Hamakua Coast is a solar electric car manufacturer who is considering construction of a manufacturing facility in Honokaa. This project recently received a federal Department of Defense grant to deliver several prototype solar electric cars to the Advance Research Projects Agency.

Because of the unique design of these solar electric cars, existing vehicle regulations need to be modified to eliminate requirements that do not apply to these types of solar electric cars. For example, one of these regulations currently requires all motorcycles and mopeds to be equipped with mufflers. This regulation is unnecessary for motorcycles or mopeds powered by electric motors because these vehicles do not have internal combustion engines that would require mufflers. By exempting these vehicles from the existing muffler requirement, this Act eliminates one of the obstacles that may affect the ability of solar electric car manufacturers from successfully marketing these vehicles in this State.

The purpose of this Act is to authorize the operation of solar electric cars, thereby increasing the likelihood of creating job opportunities related to the construction of these unique vehicles in the State.

SECTION 2. Section 286-81, Hawaii Revised Statutes, is amended to read as follows:

“§286-81 **Motorcycle, motor scooter, etc.; protective devices.** (a) No person shall:

- (1) Operate a motorcycle or motor scooter, on any highway in the State unless the person and any passenger the person carries on the motorcycle or motor scooter wears:
  - (A) [safety] Safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with wind-screens or windshields; and
  - (B) [any] Any other protective devices, other than a safety helmet, required by rules [and regulations] adopted by the [state] director [of transportation].

For the purpose of meeting the requirements of this paragraph, a required device [must] shall meet the specifications and requirements established by rules [and regulations] adopted by the director [of transportation].;

- (2) Lease or rent a motorcycle or motor scooter to another person unless the person furnishes:
  - (A) [safety] Safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with wind-screens or windshields; and
  - (B) [any] Any other protective devices required by the rules [and regulations] adopted by the director [of transportation] for the use of the person or persons intending to operate or ride as a passenger on the motorcycle or motor scooter; provided that any person to whom a motorcycle or motor scooter is leased or rented may furnish for the person’s own use the protective devices required by this part.

For the purposes of meeting the requirements of this paragraph, a required device [must] shall meet the specifications and requirements established by rules [and regulations] adopted by the [state] director [of transportation].; or

- (3) Sell or offer for sale or furnish any safety helmet, safety glasses, goggles, face shield, windscreen, windshield, or other protective devices represented to meet the requirements of this part unless the device meets the specifications and requirements established by rules [and regulations] adopted by the [state] director [of transportation].

(b) No person less than eighteen years of age shall operate or ride as a passenger on a motorcycle or motor scooter on any highway in the State unless the person wears a safety helmet securely fastened with a chin strap.

(c) A safety helmet shall not be required for any person who operates or rides as a passenger on a motorcycle or motor scooter; provided that the motorcycle or motor scooter:

- (1) Has three wheels;
- (2) Is powered by an electric motor;
- (3) Has a full body enclosed cab; and



(4) Has a seat belt assembly or a child restraint system for the driver and passenger;  
and the operator and passenger uses the seat belt or child restraint system pursuant to sections 291-11.5 and 291-11.6.”

SECTION 3. Section 291-11, Hawaii Revised Statutes, is amended to read as follows:

“§291-11 Riders and passengers under seven years of age on motorcycles and motor scooters prohibited; penalty. (a) It shall be unlawful for any driver of a motorcycle or motor scooter to carry as a passenger or to permit to ride thereon any person under the age of seven years.

(b) A driver of a motorcycle or motor scooter shall be permitted to carry as a passenger or permit to ride thereon any person under the age of seven years; provided that the motorcycle or motor scooter:

- (1) Has three wheels;
- (2) Is powered by an electric motor;
- (3) Has a full body enclosed cab; and
- (4) Has a seat belt assembly or a child restraint system for the driver and passenger;

and the operator and passenger uses the seat belt or child restraint system pursuant to sections 291-11.5 and 291-11.6.

(c) A motorcycle or motor scooter driver who violates this section shall be fined not more than \$200.”

SECTION 4. Section 291-24, Hawaii Revised Statutes, is amended to read as follows:

“§291-24 Motorcycles and mopeds, noisy mufflers; penalty. (a) Every motorcycle and moped moving under its own power on a public highway shall at all times be equipped with a muffler in constant operation to prevent any excessive or unusual noise and no such muffler or exhaust system shall be equipped with a cutout, bypass, or similar device. No person shall modify the exhaust system of a motorcycle or a moped in a manner which will amplify or increase the noise emitted by the motor of such motorcycle or moped above that emitted by the muffler originally installed on the motorcycle or moped[. A muffler is] except a motorcycle or moped that:

- (1) Has three wheels;
- (2) Is powered by an electric motor;
- (3) Has a full body enclosed cab; and
- (4) Has a seat belt assembly or a child restraint system for the driver and passenger;

shall not be required to be equipped with a muffler.

(b) As used in this section, “muffler” means a device consisting of a series of chambers or baffle plates, or other mechanical design, for the purpose of receiving exhaust gas from the engine of the motorcycle or moped, and being effective in reducing noise.

(c) Whoever violates this section shall be fined not more than \$100.”

SECTION 5. The director of transportation shall publish in a newspaper of general circulation printed and published within the State, a notice of regulatory compliance that the manufacturer of the solar electric motor vehicle has

submitted proof to the department of transportation that the vehicle meets all applicable standards, regulations, and exemptions, including but not limited to the National Electric Code and the Federal Motor Vehicle Safety Standards pursuant to 49 CFR Part 571.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon publication by the director of transportation in a newspaper of general circulation printed and published within the State, a notice of regulatory compliance as set forth in section 5; except that should the notice not be published by June 30, 1995, this Act shall be repealed.

(Approved June 8, 1994.)

## ACT 121

H.B. NO. 3302

A Bill for an Act Relating to Open Meetings.

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

SECTION 1. Chapter 92, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§92- Meeting by videoconference; notice; quorum.** (a) A board may hold a meeting by videoconference; provided that the videoconference system used by the board shall allow both audio and visual interaction between all members of the board participating in the meeting and the public attending the meeting, at any videoconference location. The notice required by section 92-7 shall specify all locations at which board members will be physically present during a videoconference meeting, and the public shall be allowed to attend the meeting at any such location.

(b) Any board member participating in a meeting by videoconference shall be considered present at the meeting for the purposes of determining compliance with the quorum and voting requirements of the board.

(c) A meeting held by videoconference shall be terminated if both audio and video communication cannot be maintained with all locations where the meeting is being held, even if a quorum of the board is physically present in one location.

(d) Each board shall adopt rules in accordance with chapter 91 regarding the use of and the procedures to be followed in a meeting held by videoconference, before the meetings are held.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 8, 1994.)

### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Licensing of Private Detectives and Guards.

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

SECTION 1. Section 463-1, Hawaii Revised Statutes, is amended to read as follows:

“**§463-1 Definitions.** As used in this chapter:

“Board” means the board of private detectives and guards described in section 463-2.

“Detective”, “private detective”, or “investigator” means a licensed person qualified to obtain information and evidence not readily or publicly accessible.

“Detective [or guard] agency” or “private detective agency” means a licensed firm, joint venture, sole proprietorship that hires resident employees, corporation, partnership, or association engaged in the private detective [or guard] business.

“Guard” means a licensed uniformed or nonuniformed person responsible for the safekeeping [by the licensed person’s presence,] of a client’s properties and persons within contractually prescribed boundaries, and for observation and reporting relative to such safekeeping.

“Guard agency” means a licensed firm, joint venture, sole proprietorship that hires resident employees, corporation, partnership, or association engaged in the guard business.

“Principal detective” means a licensed detective designated as the detective agency’s primary licensee who is fully responsible for the direct management and control of the agency.

“Principal guard” means a licensed guard designated as the guard agency’s primary licensee who is fully responsible for the direct management and control of the agency.”

SECTION 2. Section 463-5, Hawaii Revised Statutes, is amended to read as follows:

“**§463-5 Private detectives[, guards,] and detective agencies; license required.** (a) No [person] individual shall engage in the business of private detective [or guard], represent oneself to be, hold oneself out as, list oneself, or advertise as a private detective [or guard] or as furnishing detective or investigating services [or guard services] without first obtaining a license as a private detective [or guard] from the board [upon payment of] and paying the application and license fees [and no].

(b) No firm, joint venture, sole proprietorship that hires resident employees, corporation, partnership, or association shall engage in the business of private detective [or guard], represent itself to be, hold itself out as, list itself, or advertise as a private detective [or guard] agency or bureau or as furnishing detective[, or investigating[, or guard] services without first obtaining a license as a private detective [or guard] agency from the board [upon payment of] and paying the application and license fees. A detective agency shall have a principal detective who shall be a resident of the State.”

SECTION 3. Section 463-6, Hawaii Revised Statutes, is amended to read as follows:

“§463-6 Private [detective;] detectives and detective agencies; qualifications for license. (a) The board may grant a private detective license to any suitable [person,] individual, or a detective agency license to any suitable firm, joint venture, sole proprietorship that hires resident employees, corporation, partnership, or association making written application therefor. The applicant, if an individual, or the principal detective of a firm, joint venture, sole proprietorship that hires resident employees, corporation, [shall be a resident of the State,] partnership, or association, shall [be]:

- (1) Be not less than eighteen years of age[, shall have];
- (2) Have had a high school education or its equivalent[, and shall have];
- (3) Have had experience reasonably equivalent to at least four years of full-time investigational work[. The applicant shall disclose whether the applicant has received treatment for];
- (4) Not be presently suffering from any psychiatric or psychological disorder[, or whether such treatment has ever been recommended, and shall not] which is directly related and detrimental to a person’s performance in the profession; and
- (5) Not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the applicant to engage in the profession, [provided such sentence has not] unless the conviction has been annulled or expunged by court order. [Any licensee]

(b) A detective agency may employ as many agents, operatives, and assistants in an investigative capacity and as necessary for the conduct of business[.]; provided [such licensee, or] that the principal detective [if a corporation is the employer,] shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the [licensee’s] detective agency’s business. [Employees] The principal detective shall be responsible for the direct management and control of those employees. These employees shall not be required to have private detective licenses, and shall [have]:

- (1) Have had an eighth grade education or its equivalent[. The employee shall disclose whether the employee has received treatment for];
- (2) Not be presently suffering from any psychiatric or psychological disorder[, or whether such treatment has ever been recommended, and shall not] which is directly related and detrimental to a person’s performance in the profession;
- (3) Not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the profession, [provided there has not been any order annulling or expunging the sentence.] unless the conviction has been annulled or expunged by court order; and
- (4) Be registered with the board upon employment with the agency.

The employer, with the written authorization of the employee, may conduct a criminal history records check of all new employees directly through the Hawaii criminal justice data center upon certification to the board that the signature on the authorization is authentic and that the employee is employed in [a guard or] an investigative capacity.”

SECTION 4. Section 463-7, Hawaii Revised Statutes, is amended to read as follows:

“§463-7 [Guard] Guard and guard agencies; license required. (a) No [person, firm, partnership, corporation, or association] individual shall engage in the business of guard for the purpose of protecting persons or property or to

prevent theft or unlawful taking of goods, wares, merchandise, money, bonds, documents, or other articles of value for hire or reward or represent oneself to be, or hold oneself out as such without first obtaining a license as guard [or guard agency] from the board [of detectives and guards upon payment of the fees set forth in section 463-5.] and paying the application and license fees.

(b) No firm, joint venture, sole proprietorship that hires resident employees, corporation, partnership, or association shall engage in the business of guard for the purpose of protecting persons or property or to prevent theft or unlawful taking of goods, wares, merchandise, money, bonds, documents, or other articles of value for hire or reward or represent itself to be, hold itself out as, list itself, or advertise as a guard agency without first obtaining a license as a guard agency from the board and paying the application and license fees. A guard agency shall have a principal guard who shall be a resident of the State.”

SECTION 5. Section 463-8, Hawaii Revised Statutes, is amended to read as follows:

**“§463-8 [Guard;] Guards and guard agencies; qualifications for license.** (a) The board may grant a guard license to any suitable individual, or a guard agency license to any suitable [person,] firm, joint venture, sole proprietorship that hires resident employees, corporation, partnership, or association making written application therefor. The applicant, if an individual, or the principal guard [in the case] of a firm, joint venture, sole proprietorship that hires resident employees, corporation, [shall be a resident of the State,] partnership, or association, shall [be]:

- (1) Be not less than eighteen years of age[, shall have];
- (2) Have had a high school education or its equivalent[, and shall have];
- (3) Have had experience reasonably equivalent to at least four years of full-time guard work[. The applicant shall disclose whether the applicant had received treatment for];
- (4) Not be presently suffering from any psychiatric or psychological disorder[, or whether such treatment has ever been recommended, and shall not] which is directly related and detrimental to a person’s performance in the profession; and
- (5) Not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the applicant to engage in the profession, [provided such sentence has not] unless the conviction has been annulled or expunged by court order. [Any licensee]

(b) A guard agency may employ as many agents, operatives, and assistants in a guard capacity and as necessary for the conduct of business[.]; provided [such licensee, or] that the principal guard [if the employer is a corporation,] shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the [licensee’s] guard agency’s business. [Employees] The principal guard shall be responsible for the direct management and control of those employees. These employees shall not be required to have guard licenses, and shall [have]:

- (1) Have had an eighth grade education or its equivalent[. The employee shall disclose whether the employee has received treatment for];
- (2) Not be presently suffering from any psychiatric or psychological disorder[, or whether such treatment has ever been recommended, and shall not] which is directly related and detrimental to a person’s performance in the profession;

- (3) Not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the profession, [provided there has not been any order annulling or expunging the sentence.] unless the conviction has been annulled or expunged by court order; and

- (4) Be registered with the board upon employment with the agency.

The employer, with the written authorization of the employee, may conduct a criminal history records check of all new employees directly through the Hawaii criminal justice data center upon certification to the board that the signature on the authorization is authentic and that the employee is employed in a guard [or investigative] capacity.”

SECTION 6. Section 463-10, Hawaii Revised Statutes, is amended to read as follows:

**“§463-10 Licenses and renewal of licenses; establishment of fees by rule.** The license shall state the name and address of the principal office or place of business of the licensee, the name under which the licensed business is to be conducted, and the name of the principal detective or principal guard, if the licensee is a [corporation.] detective agency or guard agency.

The holder of a license issued by the board [of detectives and guards] who continues in active practice shall biennially renew the license and pay the renewal fee not later than June 30 of each even-numbered year.

The holder of an expired license may have the license restored within one year of the date of expiration upon due application therefor and payment of the delinquent fees and a penalty fee.”

SECTION 7. Section 463-12, Hawaii Revised Statutes, is amended to read as follows:

**“§463-12 Bond.** Each licensee[, individual or corporate,] shall give to the board [of detectives and guards] a bond in the sum of not less than \$5,000 executed by the applicant as principal and by a surety company authorized to do business in the State as surety. The bond shall be in such form as the board may prescribe, conditioned upon the honest conduct of the business of the licensee, and the right of any person injured by the wilful, malicious, or wrongful act of the licensee to bring in the person’s own name an action on the bond.”

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

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

(Approved June 8, 1994.)

## ACT 123

H.B. NO. 3307

A Bill for an Act Relating to Requirements for Optometry License.

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

SECTION 1. Section 459-7, Hawaii Revised Statutes, is amended by

amending subsections (a) and (b) to read as follows:

“(a) Except as otherwise provided in this chapter, every person desiring to begin or to continue the practice of optometry, before beginning or continuing practice, upon presentation of satisfactory evidence, verified by oath, that the applicant is a graduate of an optometric college, school, or university approved by the board of examiners in optometry and accredited by a regional or professional accreditation organization and recognized by the council on post-secondary accreditation or by the United States Department of Education, shall pass all examinations required by the board and comply with the following requirements:

- (1) [Complete an] Submit a completed application for licensure [and the Hawaii optometry laws and rules examination and submit the applications] to the department of commerce and consumer affairs;
- (2) Submit a nonrefundable application fee together with the application; and
- (3) Submit a copy of the applicant’s diploma or certificate of graduation from an optometric college, school, or university approved in accordance with this subsection]; and
- (4) Submit an unretouched, unmounted, passport sized, recent photograph of the applicant].

(b) [Except for the Hawaii optometry laws and rules examination, the applicants] Applicants for examination shall be given due notice of the date and place of each examination by the NBEO. If an NBEO examination is no longer recognized by the board, applicants shall pass an examination designated by the board and shall be notified by the board or testing agency designated by the board of the date and place of examination.

Every candidate who passes all examinations required by the board and who has met all requirements for licensure shall receive from the board a license to practice optometry.”

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

“**§459-8 Conduct of examinations.** [Each person whose application is received by the board before January 1, 1987, shall pass the written examination given by the NBEO.]

Each applicant whose application is received by the board [on or] after [January 1, 1987,] December 31, 1986, shall pass [the] all written [examination] examinations given by the NBEO. Beginning January 1, 1991, each applicant shall also pass [the clinical skills] a practical (Patient Care) examination administered by the NBEO. [If a written or practical examination is no longer given by the NBEO, the applicant shall pass either another national examination selected by the board, or if no other examination is selected by the board, a written examination prepared by the board or a testing agency recognized by the board.]

In addition to satisfying the applicable requirement above, the applicant shall also pass an examination given by the board.]

The board shall state in its rules the pass/fail cutoff scores for all required examinations. The board shall [not] accept the passing scores of [any] all NBEO written examinations if the [examination was] examinations were passed in [its] their entirety by the applicant [more than five years before the date the application is received by the board. If an NBEO examination is no longer recognized by the board, the board shall provide in its rules the pass/fail cutoff scores for the

examination given by the board or the testing agency designated by the board.] after December 31, 1986. The board shall accept the scores of the practical (Patient Care) examination only if the examination was passed by the applicant less than five years prior to the date the application was received by the board.”

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

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

(Approved June 8, 1994.)

## ACT 124

H.B. NO. 3309

A Bill for an Act Relating to the Licensing Requirement for a Photographer.

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

SECTION 1. Section 436B-10, Hawaii Revised Statutes, is amended to read as follows:

“**§436B-10 Application for licensure.** Application for a license shall be made under oath on a form to be furnished by the licensing authority. The form may require the applicant to provide the following:

- (1) The applicant’s legal name;
- (2) A statement that the applicant is beyond the age of majority;
- (3) The applicant’s current residence, business, and mailing addresses;
- (4) The applicant’s social security number;
- (5) The date and place of any conviction of a penal crime directly related to the profession or vocation in which the applicant is applying for licensure, unless the conviction has been expunged or annulled, or is otherwise precluded from consideration by section 831-3.1;
- [(6) A current photograph of the applicant;] and
- [(7)] (6) Any other information the licensing authority may require to investigate the applicant’s qualifications for licensure.”

SECTION 2. Section 438-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) An applicant for a barber’s license shall:

- (1) Be at least seventeen years of age;
- (2) Have a total of fifteen hundred clock hours of barber training through the following or any combination thereof:
  - (A) As an apprentice, holding an apprentice permit; or
  - (B) As a student enrolled in a school that has a barbering curriculum; provided that only classes related to barbering shall be applied towards the accumulation of clock hours.

The board shall adopt rules pursuant to chapter 91 to implement this paragraph[.]; and

- (3) Take and pass an examination for licensure[; and
- (4) Provide a current passport sized photograph].”



SECTION 3. Section 442-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) It shall be unlawful for any person to practice chiropractic without a license. Any person applying for a license to practice chiropractic shall submit an application to the board of chiropractic examiners no later than sixty days prior to the examination, accompanied by the application and examination fees[,] and [such] all documents[,] and affidavits [as are] that may be prescribed by law. The application shall be submitted in accordance with the rules of the board [of chiropractic examiners], shall be on a form prescribed by the board, and shall be signed and verified under oath by the applicant. In addition thereto, each applicant shall furnish to the board [of examiners]:

- [(1) An unretouched, unmounted photograph taken within sixty days next preceding the date of the application;
- (2) (1) A photostatic copy of the applicant's diploma from a chiropractic college or school holding status with the commission on accreditation as provided in this section;
- [(3) After March 1, 1958, satisfactory] (2) Satisfactory proof that the applicant has completed two years of liberal arts or science study at a university or college; provided that [the foregoing] this requirement shall not apply to applicants having entered an approved chiropractic college on or before October 31, 1955; and
- [(4)] (3) Evidence of having attended and graduated from a chiropractic college accredited by, or recognized as a candidate for accreditation by, any chiropractic accrediting agency recognized by the United States Department of Education. Students who have matriculated in any chiropractic college prior to October 15, 1984, shall be exempt.”

SECTION 4. Section 448-9, Hawaii Revised Statutes, is amended to read as follows:

“**§448-9 Application for examination for graduates of dental colleges accredited by the American Dental Association.** Any person of eighteen years or more[,] shall be eligible to take an examination before the board upon submission of:

- (1) An application on a form prescribed by the board to the executive secretary of the board not later than sixty days prior to the date of the scheduled examination;
- (2) Application and examination fees; and
- (3) Documentation and credentials that shall include but are not limited to the following:
  - [(A) A recent unmounted photograph of the applicant;
  - (B) (A) A diploma or certificate of graduation from a dental college accredited by the Council of Dental Education of the American Dental Association, recognized and approved by the board; and
  - [(C)] (B) A certificate or other evidence satisfactory to the board of having passed parts I and II of the examination of the National Board of Dental Examiners.”

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

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

(Approved June 8, 1994.)

## ACT 125

H.B. NO. 3310

A Bill for an Act Relating to Psychologists.

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

SECTION 1. Section 465-1, Hawaii Revised Statutes, is amended to read as follows:

“**§465-1 Definitions.** As used in this chapter, unless the context otherwise requires:

“Board” means the board of psychology.

“Director” means the director of commerce and consumer affairs.

“Institution of higher education” means a university, professional school, or other institution of higher learning that:

- (1) In the United States, is regionally accredited by bodies approved by the Council on Postsecondary Accreditation and the United States Department of Education;
- (2) In Canada, holds a membership in the Association of Universities and Colleges of Canada; or
- (3) In other countries, is accredited by the respective official organization having such authority.

“Licensed” means the authority to engage in the autonomous practice of psychology. The terms certified, registered, chartered, or any other term chosen by a jurisdiction used in the same capacity as licensed are considered equivalent terms.

“Practice of psychology” means the [performance of any professional service which consists of and requires the application of psychological principles, theories, techniques, and instruments for the purpose of assessment, diagnosis, and treatment of behavioral, emotional, mental, or behavioral health problems or disorders as defined by a diagnostic manual acceptable to the board and defined in its rules; and for the purpose of the assessment, diagnosis, and rehabilitation of organic brain syndromes.] observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures, for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, and disorders of habit or conduct, as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. Psychological services may be rendered to individuals, families, groups, organizations, institutions, and the public. The practice of psychology shall be construed within the meaning of this definition without regard to

whether payment is received for services rendered.

“Professional psychology training program” means a doctoral training program that includes (1) and (2), or (1) and (3) of the following:

- (1) Is a planned program of study which reflects an integration of the science and practice of psychology including practica and internship; and
- (2) Is designated as a doctoral program in psychology by the Association of State and Provincial Psychology Boards and the National Register of Health Service Providers in Psychology or is accredited by the American Psychological Association or the Canadian Psychological Association; or
- (3) Is offered in a regionally accredited institution of higher education.

“Psychologist” means a person who offers to the public or renders to individuals or to groups of individuals services defined as the practice of psychology. A person represents to be a psychologist if [that] the person uses any title or description of services incorporating the words “psychology,” “psychological,” [or] “psychologist”[.], or “psychotherapy,” or if the person offers or renders to individuals or to groups of individuals services defined as the practice of psychology.

“Regionally accredited institution” means an institution of higher education accredited by the bodies approved by the Council on Postsecondary Accreditation and the United States Department of Education.”

SECTION 2. Section 465-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) This chapter shall not apply to:
- (1) Any person teaching, lecturing, consulting, or engaging in research in psychology insofar as the activities are performed as part of or are dependent upon employment in a college or university; provided that the person shall not engage in the practice of psychology [as defined in section 465-1] outside the responsibilities of the person’s employment;
  - (2) Any person who performs any, or any combination of the professional services defined as the practice of psychology [in section 465-1] under the direction of a licensed psychologist in accordance with rules adopted by the board; provided that the person may use the term “psychological assistant”, but shall not identify the person’s self as a psychologist or imply that the person is licensed to practice psychology;
  - (3) Any person employed by a local, state, or federal government agency in a school psychologist or psychological examiner position, or a position that does not involve diagnostic or treatment services, but only at those times when that person is carrying out the functions of such government employment; [or]
  - (4) Any person who is a student of psychology, a psychological intern, or a resident in psychology preparing for the profession of psychology under supervision in a training institution or facility and who is designated by a title as “psychology trainee”, “psychology student”, “psychology intern”, or “psychology resident”, [which] that indicates the person’s training status; provided that the person shall not identify the person’s self as a psychologist or imply that the person is licensed to practice psychology[.];

- (5) Any person who is a member of another profession licensed under the laws of this jurisdiction to render services within the scope of practice as defined in the statutes regulating the person's professional practice; provided that the person does not represent the person's self to be a psychologist or licensed to practice psychology, as defined in this chapter;
- (6) Any person who is a member of a mental health profession not requiring licensure; provided that the person functions only within the person's professional capacities; and provided further that the person does not represent the person to be a psychologist, or the person's services as psychological; or
- (7) Any person who is a duly recognized member of the clergy; provided that the person functions only within the person's capacities as a member of the clergy; and provided further that the person does not represent the person to be a psychologist, or the person's services as psychological."

SECTION 3. Section 465-7, Hawaii Revised Statutes, is amended to read as follows:

**"§465-7 Requirements for licensing.** (a) Every applicant for a license as a psychologist shall submit evidence satisfactory to the board that the applicant meets the following requirements [set forth in paragraph (1) and paragraph (2) or (3), and paragraph (4)]:

- (1) [Is professionally competent and has demonstrated knowledge in the practice of psychology.] The applicant for licensure shall possess a doctoral degree from a professional psychology training program, awarded by an institution of higher education, or from a regionally accredited institution;
- (2) [Holds a doctoral degree from a training program approved by the American Psychological Association (APA) or holds a doctoral degree from a regionally accredited institution of higher education, and also meets the experiential requirement of] The applicant for licensure shall demonstrate that the applicant has completed two years of supervised experience [(equivalent to three thousand eight hundred hours)] in health service in psychology, of which at least one year [(equivalent to one thousand nine hundred hours)] is an internship or residency program in an organized health service training program, and one year [(equivalent to one thousand nine hundred hours)] is post doctoral[.]; and
- (3) Holds a diplomate certificate in good standing granted by the American Board of Professional Psychology.
- (4) Has] (3) The applicant for licensure has passed an examination as may be prescribed by the board.

(b) Notwithstanding subsection (a), a license may be issued to an applicant who holds a diplomate certificate in good standing granted by the American Board of Professional Psychology.

(c) A license may be issued to a senior psychologist who satisfies subsection (a)(1) and (2), and the following:

- (1) Holds a valid and current license in another jurisdiction in which the Examination for Professional Practice in Psychology was not required for licensure at the time of licensure;

- (2) Before application in this jurisdiction, has been licensed as a psychologist for at least twenty years in a United States or Canadian jurisdiction where that license was based on a doctoral degree;
- (3) Has had no disciplinary sanction against the person's license in any jurisdiction during the entire period of being licensed as a psychologist;
- (4) Has passed this jurisdiction's examination in jurisprudence; and
- (5) Has submitted the application and fees as required."

SECTION 4. Section 465-7.5, Hawaii Revised Statutes, is amended to read as follows:

"[[§465-7.5]] Foreign graduates. [Applicants for licensing whose applications are based on graduation from a foreign university shall submit evidence satisfactory to the board to establish that their formal education is equivalent to a doctoral degree in psychology granted by a United States university that is regionally accredited.] An applicant trained in an institution other than an institution of higher education as defined in this chapter must demonstrate to the satisfaction of the board that the applicant possesses a doctoral degree in psychology, the requirements for which are substantially similar to the requirements for a doctoral degree in professional psychology as required in this chapter. The board shall consider the certification of the graduate division of the University of Hawaii that the degree from the foreign university is equivalent to a doctoral degree granted from [a regionally accredited institution.] an institution of higher education as defined in this chapter."

SECTION 5. Section 465-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to any other actions authorized by law, the board shall refuse to grant a license to any applicant and may revoke or suspend any license, or may place a license, or may put a license holder on conditional probation, for any cause authorized by law, including but not limited to the following:

- (1) Professional misconduct, gross carelessness, manifest incapacity, or incompetency in the practice of psychology;
- (2) Violation of this chapter by the applicant within one year of the application, or violation of this chapter by a license holder any time the license is valid;
- (3) Any unethical practice of psychology as defined by the board in accordance with its own rules;
- (4) Fraud or deception in applying for or procuring a license to practice psychology as defined in section 465-1;
- (5) Conviction of a crime substantially related to the qualifications, functions, or duties of psychologists;
- (6) Wilful unauthorized communication of information received in professional confidence;
- (7) The suspension, revocation, or imposition of probationary conditions by another state of a license or certificate to practice psychology issued by that state if the act for which the disciplinary action was taken constitutes a violation of this chapter;
- (8) The commission of any dishonest, corrupt, or fraudulent act or any act of sexual abuse, or sexual relations with a client, or sexual

- misconduct [which] that is substantially related to the qualifications, functions, or duties of a psychologist;
- (9) Harassment, intimidation, or abuse, sexual or otherwise, of a client or patient;
  - (10) Exercising undue influence in the manner as to exploit the client [or], patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;
  - (11) Conviction of fraud in filing medicaid claims or conviction of fraud in filing claims to any third party payor, for which a copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence;
  - (12) Aiding or abetting any unlicensed person to engage in the practice of psychology;
  - (13) Repeated acts of excessive treatment or use of diagnostic procedures as determined by the standard of the local community of licensees; [or]
  - (14) Inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, inebriation, or excessive use of any substance, or as a result of any mental or physical condition[.];
  - (15) Conviction of any crime or offense that reflects the inability of the practitioner to practice psychology with due regard for the health and safety of clients or patients;
  - (16) Use of untruthful or deceptive or improbable statements concerning the licensee's qualifications or the effects or results of proposed treatment;
  - (17) Functioning outside of the licensee's professional competence established by education, training, and experience;
  - (18) Refusal to comply with any written order of the board;
  - (19) Making any fraudulent or untrue statement to the board; or
  - (20) Violation of a board rule."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 8, 1994.)

## ACT 126

H.B. NO. 3321

A Bill for an Act Relating to the Department of Human Services.

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

SECTION 1. Section 348-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the department of human services a state advisory council on rehabilitation. The council shall consist of nineteen members appointed by the governor as provided in section 26-34[.] and without regard to section 78-4. The members shall include:

- (1) At least one representative of the statewide council on independent living;
- (2) At least one representative of a parent training and information center;
- (3) At least one representative of the client assistance program;
- (4) At least one vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member if employed by the vocational rehabilitation division of the department;
- (5) At least one representative of community rehabilitation program service providers;
- (6) At least four representatives of business, industry, and labor;
- (7) Representatives of disability advocacy groups representing a cross section of individuals with physical, cognitive, sensory, and mental disabilities, and parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;
- (8) Current or former applicants for or recipients of vocational rehabilitation services; and
- (9) The director of human services, who shall be an ex officio member[.];

[A] provided that the council shall include at least one member from each county; and provided further that a majority of the council members shall be persons who have disabilities and are not employed by the department. The council members shall elect a chairperson from the membership. Each member of the council shall serve a three-year term but may not serve more than two consecutive full terms.

SECTION 2. Section 348-8, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The council shall advise the department on eligibility, order of selection, services provided, and performance of the department in providing services, and review the effectiveness of, and consumer satisfaction with, the performance of the department and other public and private entities. The council shall prepare and submit an annual report to the governor on the status of<sup>1</sup> vocational rehabilitation programs within the State and make the report available to the public.”

SECTION 3. Section 348-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the department of human services a statewide council on independent living. The council shall consist of nineteen members appointed by the governor as provided in section 26-34[.] and without regard to section 78-4. The members shall include:

- (1) At least one director of a center for independent living chosen by the directors of centers of<sup>2</sup> independent living;
- (2) An employee of the department as an ex officio nonvoting member; and
- (3) Members of other state agencies that provide services for individuals with disabilities as ex officio nonvoting members.

The council may also include:

- (1) Additional representatives from centers for independent living;
- (2) Parents and guardians of individuals with disabilities;

- (3) Advocates of and for individuals with disabilities;
- (4) Representatives from private business;
- (5) Representatives from organizations that provide services; and
- (6) Other appropriate individuals[.];

[A] provided that the council shall include at least one member from each county; and provided further that a majority of the council shall be individuals with disabilities who are not employed by any state agency or center for independent living. The council shall elect a chairperson from the membership. Each member shall serve a term of three years and may not serve more than two consecutive full terms."

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

SECTION 5. This Act shall take effect on July 1, 1994.

(Approved June 8, 1994.)

#### Notes

- 1. Prior to amendment "the" appeared here.
- 2. Prior to amendment "for" appeared here.

## ACT 127

H.B. NO. 3416

A Bill for an Act Relating to Life Insurance.

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

SECTION 1. Section 431:1-204, Hawaii Revised Statutes, is amended to read as follows:

**"§431:1-204 Life insurance defined.** Life insurance is insurance on human lives and insurance appertaining thereto or connected therewith. For the purposes of this code the transacting of life insurance includes the granting of annuities and endowment benefits, except for annuities which are provided by a nonprofit organization or a nonprofit educational foundation for a public educational institution under a charitable gift annuity agreement with a donor[, provided that the charitable gift annuity is purchased by the nonprofit educational foundation from an insurer authorized by the State to offer life insurance]; additional benefits in event of death or dismemberment by accident or accidental means; additional benefits in event of total and permanent disability of the insured; and optional modes of settlement of proceeds.

For purposes of this section, "charitable gift annuity agreement" means a contract under which an individual transfers property to a charity, conditioned upon the right to receive a specific sum of money for life.

For the purposes of this section, a "nonprofit organization" means an organization that meets all of the following requirements:

- (1) Has been granted tax exempt status as a charitable organization by the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
- (2) Has conducted business in the state continuously for at least ten years;



- (3) Has a net worth in the state of not less than \$5,000,000;
- (4) Maintains a separate annuity fund with at least one-half of the value of the annuity; and
- (5) Has filed a statement on forms that may be prescribed by the department of commerce and consumer affairs which certify compliance with this section; provided that the statement shall be filed on an annual basis in accordance with rules adopted by the department of commerce and consumer affairs.”

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

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

(Approved June 8, 1994.)

## ACT 128

H.B. NO. 3428

A Bill for an Act Relating to the Insurance Code.

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

SECTION 1. Section 431:2-308, Hawaii Revised Statutes, is amended to read as follows:

“**§431:2-308 Administrative procedure act applies.** (a) The rules, notices, hearings, orders, and appeals provided for in this code are in all applicable respects subject to chapter 91, unless it is expressly provided otherwise.

(b) The commissioner shall hold a hearing if required by this code. The commissioner may hold other hearings as the commissioner deems necessary for such purposes as are within the scope of this code.

(c) The hearings shall be held at a place designated by the commissioner and, at the commissioner’s discretion, may be open to the public.

(d) Application for a hearing made to the commissioner pursuant to this code shall be in writing and shall specify in what respects the person so applying was aggrieved and the grounds to be relied upon as a basis for the relief to be demanded at the hearing. [The] Where the commissioner has used the authority contained in section 431:9-236 to suspend, revoke, or refuse to extend a license subject to the right of the licensee to have a hearing and has suspended the license pending the hearing, the commissioner shall hold the hearing [applied for] within thirty days after the commissioner’s receipt of the application unless postponed by mutual consent.

[(e) The person aggrieved may waive this initial hearing and proceed to a contested case hearing pursuant to chapter 91.

(f) (e) Any appeal made from a decision by the commissioner shall be made pursuant to chapter 91.”

SECTION 2. Section 431:3-301, Hawaii Revised Statutes, is amended to read as follows:

“**§431:3-301 Annual filings with commissioner.** (a) Annually before March 1, or such day subsequent thereto as the commissioner upon request and

for cause may specify, the following documents are required to be filed with the commissioner:

- (1) By each insurer:
  - (A) A true statement of its financial condition, transactions, and affairs as of the immediately preceding December 31, shall be filed using the National Association of Insurance Commissioners' annual statement blank plus any additional information required by the commissioner. The annual statement shall be prepared in accordance with the National Association of Insurance Commissioners' annual statement instructions, following the practices and procedures prescribed by the National Association of Insurance Commissioners' accounting practices and procedures manuals. The reported information shall be verified by oaths of at least two of the insurer's principal officers, or the attorney-in-fact in the case of a reciprocal insurer, or the United States manager in the case of an alien insurer. The statement of an alien insurer [is required to] shall relate only to its transactions and affairs in the United States[. The commissioner shall annually during November furnish each domestic insurer duplicate copies of annual statement forms required to be filed];
  - (B) The tax statement provided for by section 431:7-201; and<sup>1</sup>
  - (C) In the event of a change in any of the other information which section 431:3-212 requires an insurer to file with the commissioner at the time of its application for a certificate of authority, the current information in the form stated in section 431:3-212;
- (2) By each insurer, the certificate of valuation provided for by section 431:5-307 and documentation of the liabilities provided for by section 431:5-203(2) and (3). The certificate of valuation and documentation of liabilities shall be accompanied by an actuarial opinion by a qualified actuary or specialist;
- (3) By each foreign or alien insurer, a certificate from the proper public official of its state or country of domicile showing that it is duly authorized to transact the classes of insurance that it is transacting; and
- (4) By each alien insurer, a certificate [of] from the proper public official as to any deposit made or held as compliance with this code.

(b) Any insurer failing or refusing to submit the annual filings or any of the documents in accordance with subsection (a) shall be liable for a penalty in an amount not less than \$100 and not more than \$500 for each day of delinquency. The commissioner may suspend or revoke the certificate of authority of any insurer [which] that fails to file any of the documents [to which] required pursuant to subsection (a) [relates].”

SECTION 3. Section 431:3-302.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any insurer failing or refusing to submit the annual audit or any of the documents required under subsection (a) on or before June 1, or a later date as the commissioner upon request or for cause may specify, shall be liable for a penalty in an amount not less than \$100 and not more than \$500 for each day of

delinquency. The commissioner may suspend or revoke the certificate of authority of any insurer who fails to file any of the documents required in subsection (a).”

SECTION 4. Section 431:10C-115.5, Hawaii Revised Statutes, is amended to read as follows:

**“§431:10C-115.5 No-fault administration revolving fund.** (a) There is established a separate revolving fund to be administered by the commissioner and to be designated as the no-fault administration revolving fund.

(b) This fund shall be used to pay the costs of administering the commissioner’s obligations under this article. The costs shall include but not be limited to costs of peer review of treatment and rehabilitation services for injuries covered by no-fault insurance, costs related to public education and information, costs related to determination of the medical-rehabilitative threshold, costs relating to closed claims studies and other studies and evaluations relating to motor vehicle insurance, and costs related to administrative contract with personnel necessary to carry out the purposes of this article.

(c) The commissioner may establish personnel positions and appoint personnel as may be necessary for the performance of the commissioner’s duties in accordance with chapters 76 and 77; provided that the commissioner may employ up to one no-fault cost compliance specialist, one no-fault insurance investigator, and three no-fault cost compliance assistants exempt from chapters 76 and 77; and provided further that the no-fault cost compliance specialist, no-fault insurance investigator, and cost compliance assistants shall possess at least the minimum qualifications and experience required of comparable personnel in the motor vehicle insurance private sector. The annual compensation for the cost compliance specialist shall not be more than \$48,200. The annual compensation for the no-fault insurance investigator shall not be more than \$48,800. The annual compensation for each cost compliance assistant shall not be more than \$41,300.

[(c)] (d) Every insurer making a challenge [which] that is submitted to a peer review organization pursuant to section 431:10C-308.6 shall pay to the commissioner a fair and equitable amount, to be determined by the commissioner, plus the cost of the peer review. The commissioner may increase the amount from time to time as warranted by increases in the cost of administering the peer review program. All payments collected by the commissioner shall be deposited in the no-fault administration revolving fund. The commissioner or the peer review organization shall not receive or accept any additional emolument on account of any challenge to a peer review organization. The peer review organization shall submit its charges, which shall not exceed a fair and reasonable charge to be determined by the commissioner, along with the peer review organization’s recommendation to the commissioner. The commissioner shall pay the peer review organization out of the no-fault administration revolving fund. The commissioner shall transmit copies of the peer review recommendation to the insured, insurer, and provider. The commissioner shall transmit the peer review charges to the insurer, and the insurer shall reimburse the no-fault administration revolving fund for the charges within thirty days.

[(d)] (e) Each insurer authorized to transact motor vehicle insurance in this State and each self-insurer shall deposit with the commissioner a fair and equitable amount to be determined by the commissioner on April 1 of each year, to be credited to the no-fault administration revolving fund. In addition, each insurer authorized to transact motor vehicle insurance in this State and each self-insurer in this State, shall pay to the commissioner at a time determined by the

commissioner, a one-time deposit in an amount to be determined by the commissioner, to be credited to the no-fault administration revolving fund.

[(e)] (f) Moneys in the no-fault administration revolving fund shall not revert to the general fund.

[(f)] (g) The commissioner shall report annually to the legislature before the convening of each regular session as to fund administration and expenditures.”

SECTION 5. Section 431:10G-301, Hawaii Revised Statutes, is amended to read as follows:

“**§431:10G-301 Required motorcycle and motor scooter policy coverage.** (a) An insurance policy covering a motorcycle or motor scooter shall provide insurance in the following amounts to pay, on behalf of the owner or any operator of the insured motorcycle or motor scooter, sums [which] that the owner or any operator may legally be obligated to pay for injury, death, or damage to the property of others, except property owned by, being transported by, or in charge of the insured [which] that arise out of the ownership, operation, maintenance, or use of the motorcycle or motor scooter:

- (1) Liability coverage of not less than [\$35,000] \$25,000 for all damages arising out of accidental harm sustained by any one person as a result of any one accident applicable to each person sustaining accidental harm; and
  - (2) Liability coverage of not less than \$10,000 for all damages arising out of injury to or destruction of property, including motorcycles or motor scooters and including the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident.
- (b) At the option of the owner, each insurer shall:
- (1) Offer medical payment coverage up to [\$15,000] \$20,000 to pay all reasonable expenses incurred within one year from the date of accident for necessary medical, surgical, [and] dental [services], [and necessary] ambulance, hospital, professional nursing, and funeral services;
  - (2) Offer an income disability plan; and
  - (3) Offer liability coverage in excess of the minimum coverages required by this section.”

SECTION 6. Section 431:14-119, Hawaii Revised Statutes, is amended to read as follows:

“**§431:14-119 Publication of approved workers’ compensation rate filings.** The insurer or rating organization submitting the workers’ compensation rate filing or lost cost filing shall publish a notice of the filing within fifteen days from the date of filing and notice of an approved filing in a newspaper of general circulation in this State in a form approved by the commissioner.”

SECTION 7. Section 431:19-102.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any foreign or alien captive insurance company may become a domestic captive insurance company by meeting the following requirements:

- (1) Compliance with all of the requirements relating to the organization and licensing of a domestic captive insurance company of the same type, and any requirements [which] that the commissioner may adopt by rule; [and]
- (2) [By filing with the department of commerce and consumer affairs its articles of association, charter, or other organizational document together with appropriate amendments bringing the articles of association, charter, or other organizational document into compliance with the laws of this State, along with a certificate of general good issued by the commissioner.] The articles of incorporation or other organizational document shall be amended in compliance with the laws of this State and restated in its entirety before submission to the commissioner. Before the amended and restated articles of incorporation or other organizational document is transmitted to the department of commerce and consumer affairs, the foreign or alien captive insurance company shall petition the commissioner to issue a certificate setting forth the commissioner's finding that the redomestication and maintenance of the corporation will promote the general good of the State. In arriving at the finding, the commissioner shall consider:
  - (A) The character, reputation, financial standing, and purposes of the foreign or alien captive insurance company;
  - (B) The character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors; and
  - (C) Any other aspects as the commissioner deems advisable;
- (3) The following shall be transmitted to the department of commerce and consumer affairs for filing:
  - (A) Articles of redomestication;
  - (B) Certificate of general good issued by the commissioner;
  - (C) Certificate of good standing duly authenticated by the proper officer of the state or country under the laws of which the foreign or alien captive insurance company is incorporated; provided that the certificate shall be dated not earlier than thirty days prior to the filing of the articles of redomestication; and provided further that if the certificate of good standing is in a foreign language, a translation under oath of the translator shall accompany the certificate;
  - (D) Amendments to the articles of incorporation or other organizational document in compliance with the laws of this State;
  - (E) Restatement of the articles of incorporation or other organizational document in its entirety; and
  - (F) Organization fee; and
- (4) The articles of redomestication shall set forth the following:
  - (A) Name of the corporation;
  - (B) Date of incorporation and state or country of incorporation;
  - (C) Street address of the principal office in this State;
  - (D) Names and titles of the officers and directors of the corporation;
  - (E) A statement that the corporation is moving its domicile from its present state or country to this State;
  - (F) A statement that redomestication will occur upon filing the articles of redomestication and that the corporation shall be

- subject to the laws of this State; and
- (G) A statement that copies of the articles of incorporation or other organizational document and any amendments certified by the proper officer of the state or country under the laws of which the corporation is incorporated are attached; provided that if any of these documents are in a foreign language, a translation under oath of the translator shall accompany these documents.”

SECTION 8. Section 431:19-102.4, Hawaii Revised Statutes, is amended to read as follows:

**“[~~§~~431:19-102.4] Redomestication; conversion to foreign insurer.**

(a) Any domestic captive insurance company, upon approval by the commissioner, may transfer its domicile to any other jurisdiction in accordance with the laws of that jurisdiction.

(b) Before transferring its domicile to any other jurisdiction and before the notice of change in domicile is transmitted to the department of commerce and consumer affairs, the domestic captive insurance company shall deliver to the commissioner a notice of intent to transfer, along with payment of a transfer fee of \$300, and petition the commissioner to issue a certificate of transfer.

(c) The notice of change in domicile, the certificate of transfer issued by the commissioner, the proof of redomestication, and the filing fee shall be transmitted to the department of commerce and consumer affairs. The notice of change in domicile shall set forth the following:

- (1) Name of the corporation;
- (2) Dates that notice of the corporation’s intent to transfer domicile from this State was published, once in each of four successive weeks (four publications) in a newspaper of general circulation published in this State;
- (3) Date of the transfer of its domicile; and
- (4) State or country to which its domicile will be transferred.

(d) Upon [such a] any transfer[,] authorized pursuant to this section, the captive insurance company shall cease to be domiciled in this State, and its corporate or other legal existence in this State shall cease upon the [filing of proof of redomestication with] issuance of a certificate of discontinuance by the department of commerce and consumer affairs [along with payment of a filing]; provided that at the time of issuance of the certificate of discontinuance, the captive insurance company shall pay a certificate fee [of \$300.] in accordance with chapter 415.”

SECTION 9. Section 431:21-104, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board of directors shall have responsibility and control over the organization, management, policies, and activities of the association. The board of directors of the association shall consist of twelve persons serving terms as established in the plan of operation. The board shall be composed of:

- (1) Nine voting members selected by the member insurers;
- (2) One [nonvoting] voting member appointed by the commissioner to represent insurance agents; and
- (3) Two [nonvoting] voting members appointed by the commissioner to represent the public.”

**ACT 129**

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval; provided that as of June 30, 1995, Section 4 of this Act is repealed and section 431:10C-115.5, Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act.

(Approved June 8, 1994.)

**Note**

- 1. Should be underscored.

**ACT 129**

H.B. NO. 3433

A Bill for an Act Approving the Advisory Opinions of the Hawaiian Home Lands Trust Individual Claims Review Panel.

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

SECTION 1. The legislature, having reviewed the advisory opinions of the Hawaiian home lands trust individual claims review panel issued pursuant to chapter 674, Hawaii Revised Statutes, does hereby approve the panel's opinions in the following claims:

<u>Claim No.</u>	<u>Title</u>
HCO 93-18	IN RE: ROWENA K. LOW
HCO 93-19	IN RE: FLORENCE N. SOARES

SECTION 2. This Act shall take effect on July 1, 1994.

(Approved June 8, 1994.)

**ACT 130**

H.B. NO. 3443

A Bill for an Act Relating to Occupational Safety and Health Training and Assistance Fund.

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

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

**“§396- Annual reports on unsafe employment for women.** The department shall prepare and submit annual reports on occupations and other employment activities that are considered to be unsafe and are predominantly performed by women. The annual reports shall be presented to the governor and the legislature prior to the convening of each regular session.”

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

## “(c) Education and training.

- (1) The department may disseminate, through exhibitions, [moving pictures,] videos, lectures, pamphlets, and any other method of publicity, information to employers, employees, and the general public regarding the causes and prevention of industrial accidents [and], injuries[.], and illnesses;
- (2) Where appropriate, the department shall undertake programs in training and consultation with employers and employees as a means of encouraging voluntary compliance[.] with occupational safety and health standards and rules; and
- (3) There is established the occupational safety and health training and assistance fund consisting of \$200,000 in fines, interest, and penalties collected pursuant to section 396-10, to be used to carry out the purposes of this subsection. The director of finance shall be the custodian of the fund, invest its moneys in accordance with applicable laws and rules, and disburse the moneys in the fund in accordance with instructions from the director of labor and industrial relations and section 36-27. All moneys earned from investments shall be deposited in the fund. The director of finance shall be liable on the director's official bond for the faithful performance of all duties in connection with the fund. The fund may be used for:
  - (A) Occupational safety and health training programs;
  - (B) Department-sponsored safety and health conferences;
  - (C) Additional state consultants (occupational safety and health advisors) to assist employers, unions, and employees; and
  - (D) Preparation of annual reports pursuant to section 396-\_\_\_\_\_.The director of labor and industrial relations shall submit annual reports to the legislature on the status of the fund, including expenditures and program results, not less than twenty days prior to the convening of each regular session.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1994; provided that:

- (1) Section 2 shall be repealed on July 1, 1996;
- (2) On July 1, 1996, section 396-4,<sup>2</sup> Hawaii Revised Statutes, is reenacted in the form in which it read on June 30, 1994; and
- (3) The director of finance shall transfer to the credit of the state general fund, all unexpended or unencumbered balances remaining in the occupational safety and health training and assistance fund established pursuant to section 396-4, Hawaii Revised Statutes, prior to June 30, 1996.

(Approved June 8, 1994.)

#### Notes

1. Edited pursuant to HRS §23G-16.5.

2. “396-4” substituted for “394-4”.



A Bill for an Act Relating to Correctional Programs.

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

SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§353- Correctional program revolving fund; program fees. (a)**

There is established within the state treasury the correctional program revolving fund. This fund shall be expended at the discretion of the director for the purpose of offsetting the cost of providing programs for inmates.

(b) The revolving fund shall consist of funds derived from fees collected pursuant to subsection (c).

(c) The director may charge any committed or detained person a fee for participation in a correctional program; provided that no person shall be denied access to a program because of the person's inability to pay the fee. The fee shall be reasonably related to the actual cost of providing the program, except that the fee may be reduced, in whole or in part, at the discretion of the director if the director finds that the person is unable to pay the entire fee. All fees collected pursuant to this subsection shall be deposited in the correctional program revolving fund.

(d) The director shall submit an annual report on the status of the correctional program revolving fund to the legislature at least twenty days prior to the convening of each regular session of the legislature. The report shall include but not be limited to the following:

- (1) The amount of moneys received and deposited in the correctional program revolving fund for the fiscal year just ended; and
- (2) Descriptions and amounts of expenditures made from the fund, and the balances remaining on June 30 of each year.

The director may include the aforementioned report in its annual report to the legislature and the governor.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 8, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Contractors.

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

SECTION 1. Section 444-15, Hawaii Revised Statutes, is amended to read as follows:

**“§444-15 Fees; biennial renewals.** The biennial fee or inactive license

fee, and recovery and education fund fees as provided in rules adopted by the director pursuant to chapter 91, shall be paid to the board on or before April 30 of each even-numbered year. Failure, neglect, or refusal of any licensee to pay the biennial renewal fee and to submit all documents requested by the board before that date shall constitute a forfeiture of the licensee's license. Any forfeited license may be restored upon written application therefor within sixty days from that date and the payment of the required fee plus an amount equal to ten per cent thereof.

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

SECTION 2. Section 444-26, Hawaii Revised Statutes, is amended to read as follows:

**"§444-26 Contractors recovery fund; use of fund; person injured; fees.** The contractors license board is authorized and directed to establish and maintain a contractors recovery fund from which any person injured 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] rules adopted pursuant thereto, may recover by order of the circuit court or district court of the judicial circuit where the violation occurred, an amount of not more than \$12,500 per contract, regardless of the number of persons injured under the contract, 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, including court costs and fees as set by law, and reasonable attorney fees as determined by the court; provided that recovery from the fund shall not be awarded to persons injured by an act, representation, transaction, or conduct of a contractor whose license was in an inactive status at the time of the injury.

For purposes of this chapter, "person injured" or "injured person" means and is limited to owners or lessees of private residences, including condominium or cooperative units, who have contracted with a duly licensed contractor for the construction of improvements or alterations to their own private residences and owners or lessees of real property who [contract] have contracted with a duly licensed contractor for the construction of their own private residences on their real property.

[On or after May 1, 1974, when] When any person [makes application] applies for a contractors license, the person shall pay, in addition to the person's original license fee, a fee of \$150 for deposit in the contractors recovery fund[.], and a fee for deposit in the contractors education fund as provided in rules adopted by the director pursuant to chapter 91. In the event that the contractors license board does not issue the license, [this fee] these fees shall be returned to the applicant."

SECTION 3. Section 444-27, Hawaii Revised Statutes, is amended to read as follows:

**"§444-27 Additional payments to fund. (a)** [If, on December 31 of any year,] At any time when the balance remaining in the contractors recovery fund is

## ACT 133

less than \$250,000, [every contractor, when renewing the contractor's license during the following biennial renewal period, shall pay, in addition to the contractor's license renewal fee,] the board may assess every contractor a fee not to exceed [\$250] \$500 annually for deposit in the contractors recovery fund.

(b) The failure of any contractor to pay the assessment within sixty days from the date of assessment shall constitute a forfeiture of the contractor's license. The board may impose other penalties or requirements as a condition of restoration of the license."

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

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

(Approved June 8, 1994.)

## ACT 133

H.B. NO. 3585

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

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

SECTION 1. The purpose of this Act is to balance the exceptionally high cost of constructing electric utility lines underground with other relevant factors when the public utilities commission exercises its exclusive authority in determining whether it is preferable to construct the electric utility lines overhead or underground. While there are benefits to constructing electric utility lines underground, those benefits extend not only to the utilities' ratepayers, whose rates should reflect the utilities' cost of providing reasonably reliable electric service, but extend to the public at large. Ratepayers should not be forced to pay, through their rates, for these additional costs. Accordingly, in the interest of fairness and equity to all ratepayers served by public utilities within the State, those policy making or implementing bodies that require that electric utility lines be placed underground should provide the funds in excess of those required for overhead construction. Notwithstanding the absence of funds from those requiring entities necessary for the additional costs of underground construction, the public utilities commission may approve underground construction upon consideration of the additional cost of underground construction and other relevant factors.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§269- Construction of high-voltage electric transmission lines; overhead or underground construction.** Notwithstanding any law to the contrary, whenever a public utility applies to the public utilities commission for approval to place, construct, erect, or otherwise build a new forty-six kilovolt or greater high-voltage electric transmission system, either above or below the surface of the ground, the public utilities commission shall determine whether the electric transmission system shall be placed, constructed, erected, or built above or below the surface of the ground; provided that the public utilities commission may in its determination consider the following factors:

- (1) Whether there is a benefit that outweighs the costs to place the electric transmission system underground;
- (2) Whether there is a governmental public policy requiring the electric transmission system to be placed, constructed, erected, or built underground and the governmental agency establishing the policy commits funds for the additional costs of undergrounding;
- (3) Whether any governmental agency or other parties are willing to pay for the additional costs of undergrounding; and
- (4) Any other relevant factors.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

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

(Approved June 8, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 134**

H.B. NO. 3742

A Bill for an Act Relating to the Hawaii Young Scholars Program.

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

SECTION 1. Act 299, Session Laws of Hawaii 1992, is amended to read as follows:

“SECTION 1. The purpose of this Act is to allow the department of education to establish a [two-year] five-year pilot program to be called the Hawaii young scholars program. The legislature finds that certain ethnic groups occupy a disadvantaged position in our State, particularly because of their [socio-economic and education] socioeconomic and educational status. The legislature also finds that one way to lessen this disadvantage is to provide a stimulating, positive, and quality educational environment.

The Hawaii young scholars program would serve to lessen the disparity among those individuals who pursue a higher education and those individuals who do not go on to college. This disparity is a community concern, especially as a significant number of economically disadvantaged children tend to become school drop-outs. Education is a positive alternative for these children to avoid a life of need, poverty, welfare, and abuse.

In 1990, the legislature passed Act 333, which established the Hawaii opportunity program in education (HOPE). Through the HOPE special fund, financially needy students are given the chance to participate in a comprehensive program at the elementary, secondary, and post-secondary levels with priority given to students from ethnic groups who are underrepresented in the student population at the University of Hawaii.

[However,] HOPE, however, is limited to those students attending “special needs schools”. A separate but complementary program may be initiated and implemented to reach students who might not otherwise be eligible [participants] to participate in HOPE, but could benefit from a program that affords quality

preparation for post-secondary education. A program that is designed to stimulate, motivate, and support children from ethnic groups underrepresented at the University of Hawaii would assist in continuing efforts to equalize educational opportunities for all ethnic groups within the State and [would] help to alleviate the racial tension that sometimes exists because of lack of educational opportunities for some groups.

This program should provide early, continuous, and quality educational enrichment activities that include parents, teachers, students, and student peers as core support members in each student's educational progress. This support network would, in all probability, have substantial influence on whether a student will acquire the motivation, interest, and determination to pursue a higher education.

The teacher, the parent, the sibling, the friend, and the employer—all facets of society—are critical to learning. Also important are parental support and attitudes toward learning and education, as [parental] parent's attitudes are often reflected in their [child's] children's attitude, ability, and determination to learn and succeed in school. Teachers generally find that if students are motivated to learn, then their role as facilitators of learning is greatly enhanced.

SECTION 2. (a) The department of education may establish a [two-year] five-year pilot program to be called the Hawaii young scholars program. The department of education may implement the program in five selected elementary schools throughout the State, beginning with the third grade in the first year of the [two-year pilot] program, and then with the fourth grade in the second year of the [two-year pilot] program. Schools not selected may be encouraged to participate in the Hawaii young scholars program under school/community-based management.

(b) The department of education may [coordinate]:

(1) Coordinate with the University of Hawaii in the design of the Hawaii young scholars program[.

The department of education may also provide]; and

(2) Provide a contract of agreement to each economically disadvantaged child and the child's parents or guardians [that], which is consistent with school/community-based management.

SECTION 3. If it is established by the department of education, the Hawaii young scholars program [pilot program] shall operate for [two] five years. The department of education shall submit [a report] status reports on the performance of the [Hawaii young scholars] program [and its recommendations with regard to the program] to the legislature not less than twenty days prior to the convening of [the] each regular session [of 1994.], and a final report with findings and recommendations to the legislature not less than twenty days prior to the convening of the regular session of 1997.

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

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

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

(Approved June 8, 1994.)

## ACT 135

S.B. NO. 2834

A Bill for an Act Relating to the Special Supplemental Food Program for Women, Infants, and Children (WIC).

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

SECTION 1. Act 289, Session Laws of Hawaii 1993, authorized the department of health to convert to permanent civil service status eighty federally-funded, temporary Hawaii women, infants, and children (WIC) nutrition program positions (79.5 full-time equivalents) during fiscal year 1993-1994 for the purpose of stabilizing staff and increasing the number of women, infants, and children served by the Hawaii WIC nutrition program. The department of health identified the following positions to convert to permanent civil service status:

- (1) Two public health nutritionist IV positions;
- (2) Sixteen public health nutritionist III positions;
- (3) Eight clerk-typist II positions;
- (4) Twenty-five clerk II positions; and
- (5) Twenty-nine paramedical assistant II positions

previously established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended.

The legislature finds that, upon conversion to permanent civil service status, the employees in the eighty positions will suffer loss of employee benefits and privileges which were accrued during their previous temporary or limited term appointments with the Hawaii WIC nutrition program. The purpose of this Act is to ensure that those employees, upon conversion, will retain their accrued benefits and privileges.

SECTION 2. Act 289, Session Laws of Hawaii 1993, is amended by adding a new section to read as follows:

“SECTION 33A. Provided that, with respect to the 79.5 full-time equivalent public health nutritionist, clerk-typist, clerk, and paramedical assistant positions of the Hawaii women, infants, and children nutrition program (HTH 160), the department of health is authorized to convert to permanent status incumbent officers and employees in those positions who shall be granted permanent civil service status in the converted positions without loss of salary, seniority, prior service credit, accrued vacation, sick leave, or other employee benefits and without the necessity of examination; provided that an officer or employee in a position to be converted pursuant to this Act must have performed work satisfactorily for a period of not less than six continuous months prior to the effective date of this Act; and provided that the officer or employee possesses the minimum qualifications for the position to which appointed.”

SECTION 3. New statutory material is underscored.

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

(Approved June 8, 1994.)

A Bill for an Act Relating to the Hawaii Community Development Authority.

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

SECTION 1. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

“**§36-27 Transfers from special funds for central service expenses.** Except as [hereinafter] provided[.], in this section, and notwithstanding [any provisions of] any other law to the contrary, [there shall be deducted] from time to time [by] the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the [special]:

- (1) Special summer school fund under section 298-3.5; [the school]
- (2) School cafeteria special funds of the community colleges and the department of education; [the special]
- (3) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii; [the state]
- (4) State educational facilities improvement special fund; [and the convention]
- (5) Convention center capital and operations special fund [.]; and
- (6) Special fund established by section 206E-6,

shall deduct five per cent of all receipts of [each such] all other special [fund,] funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers.”

SECTION 2. Section 36-30, Hawaii Revised Statutes, is amended to read as follows:

“**§36-30 Special fund reimbursements for departmental administrative expenses.** Each special fund, except the [transportation]:

- (1) Transportation use special fund established by section 261D-1; [the special]
- (2) Special summer school fund under section 298-3.5; [the school]
- (3) School cafeteria special funds of the community colleges, and the department of education; [the special]
- (4) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii; [and the state]
- (5) State educational facilities improvement special fund[.]; and
- (6) Special fund established by section 206E-6,

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned. Administrative expenses shall include[, but shall not be limited to,] salaries, maintenance of buildings and grounds, utilities, and general office expenses. The pro rata share of each special fund shall be that proportion of the administrative expenses of the department, including those paid from all special funds administered by the department, which the expenditures of the special fund

bear to the total expenditures of the department; provided that in determining the amount to be charged to each special fund for its pro rata share, credit shall be given for any administrative expenses paid from the special fund concerned and [such] other adjustments shall be made as [may be] necessary to achieve an equitable apportionment. The director of finance may determine the amount to be charged to each special fund and may cause the amounts to be transferred to the general funds as reimbursements.”

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

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

(Approved June 8, 1994.)

## ACT 137

S.B. NO. 2924

A Bill for an Act Relating to the Aloha Tower Fund.

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

SECTION 1. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

“**§36-27 Transfers from special funds for central service expenses.** Except as hereinafter provided, and notwithstanding any provisions of any other law to the contrary, there shall be deducted from time to time by the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the [special]:

- (1) Special summer school fund under section 298-3.5; [the school]
- (2) School cafeteria special funds of the community colleges and the department of education; [the special]
- (3) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii; [the state]
- (4) State educational facilities improvement special fund; [and the convention]
- (5) Convention center capital and operations special fund[.]; and
- (6) Aloha Tower fund created by section 206J-17.

five per cent of all receipts of each such special fund, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers.”

SECTION 2. Section 36-30, Hawaii Revised Statutes, is amended to read as follows:

“**§36-30 Special fund reimbursements for departmental administrative expenses.** (a) Each special fund, except the [transportation]:

- (1) Transportation use special fund established by section 261D-1; [the special]



- (2) Special summer school fund under section 298-3.5; [the school]
- (3) School cafeteria special funds of the community colleges, and the department of education; [the special]
- (4) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii; [and the state]
- (5) State educational facilities improvement special fund[.]; and
- (6) Aloha Tower fund created by section 206J-17.

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.

(b) Administrative expenses shall include, but shall not be limited to[, salaries.];

- (1) Salaries; [maintenance]
- (2) Maintenance of buildings and grounds[, utilities.];
- (3) Utilities; and [general]
- (4) General office expenses.

(c) The pro rata share of each special fund shall be that proportion of the administrative expenses of the department, including those paid from all special funds administered by the department, which the expenditures of the special fund bear to the total expenditures of the department; provided that in determining the amount to be charged to each special fund for its pro rata share[, credit];

- (1) Credit shall be given for any administrative expenses paid from the special fund concerned; and [such other]
- (2) Other adjustments shall be made as [may be] necessary to achieve an equitable apportionment.

(d) The director of finance may determine the amount to be charged to each special fund and may cause the amounts to be transferred to the general funds as reimbursements.”

SECTION 3. Section 206J-17, Hawaii Revised Statutes, is amended to read as follows:

“**§206J-17 Aloha Tower fund.** (a) There is created the Aloha Tower fund. All [moneys.];

- (1) Moneys; [rentals,]
- (2) Rentals; [charges, and]
- (3) Charges; [other]
- (4) Other revenues of the development corporation; and
- (5) Moneys or charges received by the department of business, economic development, and tourism;

including reimbursements for costs and staff services as a result of planning, development, or redevelopment of the lands located seaward of Nimitz Highway between Pier 4 and the Honolulu International Airport shall be deposited into the fund; provided that the].

(b) The development corporation may establish a separate account with respect to each issue of bonds issued under this chapter and direct that the moneys, rentals, charges, and other revenues pledged to the payment of [such issue of bonds] the bond issue be credited to [such] that account and, as permitted by section 206J-12(g)(7), designate a trustee to receive and receipt for, hold, and administer the moneys in [such] the account. [In the event moneys are to be] Moneys credited to a separate account held by a trustee [as aforesaid, such moneys] may be paid directly to [such] the trustee [with]; provided that appropriate entries are are

made [with respect to the fund] for purposes of accounting.

(c) The moneys on deposit in the fund shall be used for the purposes of this chapter[.] and for the development, redevelopment, or improvement of the Honolulu Waterfront located seaward of Nimitz Highway between Pier 4 and the Honolulu International Airport."

SECTION 4. The Aloha Tower Development Corporation shall review the waterfront special account and submit a report to the legislature on the:

- (1) Amount of money in the account;
- (2) Projects funded by the account;
- (3) Cost of each project;
- (4) Revenues generated from each project; and
- (5) Other pertinent information on the account;

no later than twenty days prior to the convening of the regular session of 1996.

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

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

(Approved June 8, 1994.)

## ACT 138

S.B. NO. 2925

A Bill for an Act Relating to County Contributions to the Employees' Retirement System.

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

SECTION 1. All special and revolving funds were evaluated by the auditor to determine whether their existence was justified. Many funds were recommended by the auditor to be repealed or discontinued. The departments and the legislature concurred with the auditor's recommendations on certain funds.

The purpose of this Act is to repeal the county special fund for certification and payment of county contributions to the employees' and retirement system pursuant to section 11 of Act 280, Session Laws of Hawaii 1993.

SECTION 2. Section 88-126, Hawaii Revised Statutes, is amended to read as follows:

**"§88-126 Certification and payment of county contributions to system.** Except as otherwise provided in section 88-118, the board of trustees shall certify annually to the councils of each county and to the director of finance [and comptroller] of the State the amount due from [such] each county on account of its employees who are members of the system[, segregated between the respective funds of the county out of which the compensation the employees is paid and the director of finance shall pay the amount to the board, and the board shall credit the amount to the appropriate fund or funds of the system. The payments shall be made out of the special fund for the county hereinafter provided for, upon warrants of the comptroller]. The [councils] council of each county shall include in its annual budget [for the fixing of the real property tax rate for the

county<sup>1</sup> under the item designation as “(5) county contributions to the employees’ retirement system of the State”,] the amount certified to it by the board [as due from the county for the year, including in the budget proper deductions from or additions to such amount as hereinafter provided and offsetting against such amount, in the budget, the amount of other funds, if any, by the board estimated to be available for and intended to be applied on account of the total amount due from the county]. The amount shall be paid by the county [into the State treasury before April 2 of the calendar year out of county funds available for the payment of payrolls, on the basis of the segregation certified to the county by the board, and the State director of finance shall place the amount in a special fund for the county.] before October 1 and April 1 of each fiscal year. If the amount or any portion thereof is not paid by the county before [April 2] October 1 and April 1 of each fiscal year, the director of finance shall retain out of the real property tax money collected for the year a sum equal to the amount or portion thereof not so paid. All the moneys retained and collected by the director of finance shall be deposited in [a special fund for such county. Payments on account of the obligations of each county shall be made out of the fund.] the appropriate fund or funds of the system. The amount of any [excess or] deficiency [in the fund] in meeting the obligations shall be [subtracted from or] added to[, as the case may be,] the amount due from the county for the succeeding year. [The comptroller and director of finance shall, in the month of January of each year, transmit to the treasurer or director of finance of each county a joint statement showing the amounts of receipts by and payments out of the special fund for the county and the amount of the excess or deficiency, if any.]”

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

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

(Approved June 8, 1994.)

Note

1. Prior to amendment “,” appeared here.

ACT 139

S.B. NO. 2949

A Bill for an Act Relating to the Hawaii Civil Rights Commission.

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

SECTION 1. Section 368-4, Hawaii Revised Statutes, is amended to read as follows:

“**§368-4 Records; confidentiality; disclosure; reporting requirements.**  
(a) All records of the investigation arising from a complaint filed with the commission shall be kept confidential and shall not be disclosed to anyone [except as]; provided that any factual matters provided to the commission during the intake and investigation of the complaint, including complainant and respondent statements and documents, pre-complaint questionnaires, witness statements for which the witness has not requested confidentiality, other documents received from witnesses, and correspondence with parties and witnesses may be disclosed:

- (1) As may be required by order of a court with jurisdiction in a case arising from a complaint filed with the commission; or [as otherwise provided by law.]
- (2) As may be requested by a party in a complaint filed with the commission, if a complainant verifies in writing that the complainant has received a notice of right to sue pursuant to section 368-12 and a civil action has been filed or the right to sue has not expired, or if a respondent verifies in writing that the complainant has filed a civil action.

(b) All records of non-factual matters relating to the investigation and arising from a complaint filed with the commission, including:

- (1) Settlement discussions;
- (2) Financial records;
- (3) Commission attorney communications and work products;
- (4) Confidential witness statements; and
- (5) Commission investigatory procedures, including but not limited to:
  - (A) Training and educational discussions between staff;
  - (B) The case analysis manual;
  - (C) Procedures and standards used in case analysis;
  - (D) Investigatory directives;
  - (E) Investigative plans, strategies, or goals;
  - (F) Case reviews; and
  - (G) Investigator notes, impressions, recommendations, and reports;

shall be considered confidential records except as otherwise provided by law.

(c) The disclosure of records that are not related to the investigation arising from a complaint filed with the commission shall be subject to chapter 92F.

(d) The commission shall maintain complete records of all complaints filed with the commission and shall compile annual statistical data on the number of complaints filed and the status or disposition of those complaints by types of complaints.

(e) The commission shall provide to the governor and the legislature a report of that statistical data on an annual basis, not less than thirty days prior to the convening of the legislative session."

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

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

(Approved June 8, 1994.)

## ACT 140

S.B. NO. 2954

A Bill for an Act Relating to the Land Fire Protection law.

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

SECTION 1. Chapter 185, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§185-       **Definitions.** As used in this chapter, unless the context otherwise requires:

“Administrator” means the administrator of forestry and wildlife.

“Board” means the board of land and natural resources.

“Branch” means an area comprising a county of the State.

“Department” means the department of land and natural resources.

“Manager” means the forestry and wildlife manager of a designated branch.”

SECTION 2. Section 185-1, Hawaii Revised Statutes, is amended to read as follows:

“**§185-1 Responsible agency.** The department [of land and natural resources] shall take measures for the prevention, control, and extinguishment of [forest] wildland fires [on state owned and private lands] within [the] forest reserves, [game management areas,] public hunting areas, wildlife and plant sanctuaries, and natural area reserves [of the State] and shall cooperate with established fire control agencies of the counties and the federal government in developing plans and programs and mutual aid agreements for assistance for the prevention, control, and extinguishment of fires on forest, [pasture, and] grass, brush, and watershed lands not within [forest reserves, game management areas, public hunting areas, and natural area reserves.] the department’s fire protection responsibilities described above.”

SECTION 3. Section 185-2, Hawaii Revised Statutes, is amended to read as follows:

“**§185-2 [Fire wardens] Administrator and [foresters.] managers.** The [state forester] administrator shall be responsible for coordinating the work of [fire wardens] managers and reviewing their plans for fire protection and control[.] within the meaning of this chapter. [The forester] A manager shall be in charge of [state] lands within forest reserves [on each island], public hunting areas, wildlife and plant sanctuaries, and natural area reserves for the manager’s branch, and shall be [the chief fire warden for that island and shall be] in charge [of all fire wardens on the island; provided that if members of the county or federal fire departments are fire wardens the chain of command will be defined by a mutual aid agreement between the department of land and natural resources and the county or federal government as provided in section 185-1. Fire wardens shall be appointed by the department of land and natural resources to serve without pay, for as many districts as in the opinion of the department may be needed for each island to give an adequate coverage and they shall be responsible for enforcing the fire prevention sections of this chapter in the district to which they are appointed.] or in support of all measures for the prevention, control, and execution of wildland fire protection in the manager’s branch.”

SECTION 4. Section 185-3, Hawaii Revised Statutes, is amended to read as follows:

“**§185-3 Powers and duties of [foresters] the administrator and [fire wardens.] managers.** (a) The administrator [of forestry and wildlife] shall be responsible to the board [of land and natural resources] for supervision of the organization plans and actions of the [fire warden.] managers.

(b) The administrator [of forestry and wildlife] shall have the power and duty to:

- (1) Review and approve plans[,] prepared by the [chief fire wardens, zoning each island under the chief fire warden's jurisdiction into fire districts;] managers;
  - [(2) Recommend to the board the appointment of a fire warden for each fire district in accordance with section 185-2;
  - (3) Appoint special fire wardens who shall serve without compensation but who shall have the same benefits, powers, and duties as district fire wardens during the term of their appointments pending the filling of vacant fire warden positions by the board or during periods when a fire warden is unable, because of illness, absence from the district, or for any valid reason, to perform or attend to the fire warden's duties for periods not to exceed two months;
  - (4) (2) Establish procedures and guidelines for the prevention, control, and extinguishment of fires coming within the meaning of [fires in] this chapter;
  - [(5) (3) Establish procedures, guidelines, and conditions for the issuance of [fire] burning permits and for determining periods when forest [areas] reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves shall be closed;
  - [(6) (4) Close [forest areas] or partially close forest reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves, by restricting certain activities when necessary;
  - [(7) (5) Summon, when necessary, [men and] additional firefighting assistance, equipment, supplies, and materials needed to extinguish fires; and
  - [(8) Act as fire boss or assign a fire boss to supervise the operations of controlling and extinguishing fires;
  - (9) Arrest without warrant any person who in the presence of the administrator of forestry and wildlife commits any of the offenses prohibited by this chapter; and
  - (10) (6) Do any act which the [chief fire warden or district warden] manager is empowered to perform under this chapter.
- (c) The [chief fire warden of each island] manager shall have the power and duty to:
- (1) Prepare a [master] plan for [zoning the island into] fire [districts;] protection within the meaning of section 185-1;
  - [(2) Make recommendations to the administrator of forestry and wildlife who will then recommend to the board for the appointment of fire wardens for each fire district;
  - (3) (2) Take necessary measures for the prevention, control, and extinguishment of fires coming within the meaning of this chapter;
  - [(4) Supervise the work of fire wardens, and, when necessary, recommend to the administrator of forestry and wildlife for the appointment for periods of time limited to two months of special fire wardens to serve without compensation who shall have the same powers as district fire wardens during their term of appointment;
  - (5) (3) Issue fire warning notices during dry periods or other seasons when fire hazards are great;
  - [(6) (4) Close forest reserves, [game management areas,] public hunting areas, wildlife and plant sanctuaries, and natural area reserves to public access or restrict their use during dry periods when necessary, to reduce fire risk[, except it shall be lawful for the owner or the owner's agents or other persons regularly engaged in harvesting,

processing or moving farm or forest products to enter the closed area for essential residential or commercial purposes];

- (5) Close public access to areas in which fire control operations are ongoing;
  - [(7)] (6) Issue burning permits [and authorize fire wardens to issue burning permits] as provided in section 185-7;
  - [(8)] (7) Receive, audit, and if correct, approve and transmit to the [board] department through the administrator [of forestry and wildlife], all reports and accounts for expenses incurred in the prevention, control, and extinguishment of any fires which come within the meaning of this chapter;
  - [(9)] (8) Summon, when necessary, additional firefighting assistance, equipment, supplies, or materials to assist [fire wardens] in fighting a fire;
  - [(10)] (9) Assume full responsibility[, upon relieving any fire warden of such responsibility,] for directing the control and extinguishment of any fire coming within the meaning of this chapter, including directing the control and extinguishment of any fire on or threatening any [government or private lands in forest reserves, game management areas, public hunting areas, and natural area reserves;] lands included in section 185-1 as may be provided for under mutual aid agreements with other fire control agencies; and
  - [(11)] (10) Conduct educational work in the protection of forest[, pasture, and brush lands] reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves against fires[;].
  - [(12)] Arrest without warrant any person committing in the chief fire warden's presence any of the offenses prohibited by this chapter.
- (d) The district fire warden shall have the following duties and powers within the district fire warden's assigned district:
- (1) Advise the chief fire warden of the need of fire warning notices; and, if issued, assist in posting the warnings;
  - (2) Issue burning permits, when authorized by the chief fire warden;
  - (3) Summon and have control of (unless relieved by the administrator of forestry and wildlife or chief fire warden as herein provided) all persons, equipment, apparatus, supplies, and materials used or needed for fighting a fire;
  - (4) Authority to incur expenses for the purposes of and in accordance with this [chapter], provided that the district fire warden may relinquish such authority to the chief fire warden of the island;
  - (5) Submit to the chief fire warden a correct and itemized account of expenses, together with a report of the fire on forms supplied by the department;
  - (6) Arrest without warrant any person committing in the district fire warden's presence any of the offenses prohibited by this chapter.]”

SECTION 5. Section 185-4, Hawaii Revised Statutes, is amended to read as follows:

“§185-4 Payment for firefighting. (a) No federal or county agency summoned by [a fire warden] the administrator or manager to assist in extinguishing a fire shall be reimbursed for expenses incurred in such firefighting[.] unless specified by mutual aid agreement.

(b) No owner, lessee, or occupier of any lands upon which a fire has occurred, nor any employee of such persons, nor any person who has any vested interest in and to the lands or [his] that person's employees shall be entitled to the compensation provided for in this chapter, for [his] services and materials rendered in and upon the land in the extinguishment of any fire; provided that the prohibition [contained in this paragraph] shall not apply to owners or persons holding interests to any lands which have been surrendered to the department [of land and natural resources] under agreement as a public forest reserve for a period of ten years or more or as a public [shooting ground] hunting area for a period of five years or more or to any owner who suffered a fire as a result of [his] allowing [his] use of the owner's land [to be used] by the general public without compensation.

[The department shall pay all expenses for wages of persons, use of equipment, supplies, or materials summoned or used by the state forester, or a fire warden, for controlling and extinguishing any fire coming within the meaning of this chapter.]

(c) All reimbursable expenses incurred in controlling or extinguishing a fire by the [state forester,] administrator or a [fire warden,] manager shall be payable from the firefighter's contingency fund, provided the fire suppression budget is exceeded, and the owner, lessee, or agency having control over the lands has not been negligent in starting or failing to control or extinguish a fire. Any person, agency, or corporation summoned by the [state forester,] administrator or a [fire warden] manager to assist in extinguishing a fire eligible under this chapter to claim for reimbursement for wages, equipment use, supplies, or materials must submit an itemized statement of such claims to the [chief fire warden] administrator through the [district fire warden] manager within [sixty] forty-five working days after the fire has been extinguished in order to have it honored.

(d) There shall be established under the control of the department [of land and natural resources] a firefighter's contingency fund into which shall be deposited appropriations made by the legislature."

SECTION 6. Section 185-5, Hawaii Revised Statutes, is amended to read as follows:

**"§185-5 Rates of pay for [fire fighting,] firefighting.** Persons summoned by the [state forester] administrator or a [fire warden] manager or by anyone authorized by the [state forester] administrator or a [fire warden] manager for controlling or extinguishing a fire, within the meaning of this chapter, and who are eligible for compensation under this chapter, shall receive compensation at an hourly rate equivalent to the prevailing entry level rate of the civil service classification for the skill for which the person is called on to perform. The rental rates of equipment shall not exceed the prevailing interdepartmental rates for equipment of similar type as established by the department of accounting and general services and supplies or material expended shall be paid for at the actual cost of replacement."

SECTION 7. Section 185-7, Hawaii Revised Statutes, is amended to read as follows:

**"§185-7 Fire danger periods, burning permits, setting fires, penalties.** (a) During periods of weather when the [state forester determines that the possibility] threat of fire is particularly dangerous [on] within forest reserves, public



hunting areas, wildlife and plant sanctuaries, and natural area reserves in any [island] branch, the [chief fire warden of such island] manager shall establish a fire danger period by causing a fire warning to be issued by publishing a notice containing information setting forth the [fact] type of closure and a designation of the affected areas [within which burning is prohibited without a permit, in a paper of general circulation in the area affected] or by posting notices in public places with similar information. [During such periods no fires other than a fire contained in a closed, screened container, which shall prevent the spread of a fire shall be started for purposes of burning forest, pasture, or brush lands or for burning flammable material within 500 feet of forest, pasture, or brush land unless a burning permit is first obtained from the state forester or a fire warden as provided herein.] During fire danger periods, the manager may:

- (1) Totally close or limit use within an area;
- (2) Prohibit any burning;
- (3) Prohibit smoking in specified areas, including in automobiles operating in the area; and
- (4) Prohibit camping in certain areas.

However, in areas where fire control operations are in progress, a manager may prohibit public access and use without prior notice for purposes of effective fire control operations and public safety.

(b) The manager will minimize the threat of fires by maintaining control through the issuance and management of burning permits or the establishment of rules by the department, pursuant to chapter 91. On other lands where the department has direct fire protection responsibility, as described in section 185-1, and on adjoining property that offer a significant threat to those lands, the department shall establish agreements with the department or<sup>1</sup> health to require burning plans acceptable to the managers and the county fire chief. The issuance of permits shall be at the discretion of the issuing officer who shall take into account whether the issuance of a permit is compatible with safety. Holders of permits shall start no fires during a heavy wind or without sufficient help present to control same and shall maintain a constant watch over the fires until they have been extinguished. [Every]

(c) Any person who violates any restriction of a closure or any person who discards burning material within a closed fire area, or, every person who sets a fire on land within the closed fire area without a permit, or, every person who wilfully, maliciously, or negligently sets a fire which burns property not owned, leased, or controlled by the person shall be guilty of a misdemeanor. Any person violating this section shall be fined not less than [\$25] \$250 nor more than [\$5,000.] \$4,000 and shall be held liable for restitution for any suppression costs and damages to public or private property. Setting fires or causing them to be set or allowing them to escape shall be prima facie evidence of wilfulness, malice, or negligence under this section; provided that nothing herein contained shall apply to a person who, in good faith, sets a back fire to check a fire already burning. A "closed fire area" is defined as the area wherein [burning is prohibited] a total closure or specific burning restrictions are in effect during a fire danger period."

SECTION 8. Section 185-8, Hawaii Revised Statutes, is amended to read as follows:

**"§185-8 Government agencies to assist.** All agencies of the State or its political subdivisions shall assist in extinguishing any fire when duly summoned by the [state forester] administrator or any [fire warden.] manager."

SECTION 9. Section 185-9, Hawaii Revised Statutes, is amended to read as follows:

“§185-9 **Obstructing the [state forester] administrator or [fire warden]; managers; penalty.** Any person who obstructs or interferes with or prevents the [state forester] administrator or any [fire warden] manager or any person in the performance of any duty authorized by this chapter shall be fined not less than [\$25] \$500 nor more than [\$500] \$2,000.”

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

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

(Approved June 8, 1994.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 141

S.B. NO. 2964

A Bill for an Act Relating to the General Excise Tax on Manufacturing and Producing.

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

SECTION 1. Section 237-13, Hawaii Revised Statutes, is amended to read as follows:

“§237-13 **Imposition of tax.** There is hereby levied and shall be assessed and collected annually privilege taxes against persons on account of their business and other activities in the State measured by the application of rates against values of products, gross proceeds of sales, or gross income, whichever is specified, as follows:

- (1) Tax on manufacturers.
  - (A) Upon every person engaging or continuing within the State in the business of manufacturing, including compounding, canning, preserving, packing, printing, publishing, milling, processing, refining, or preparing for sale, profit, or commercial use, either directly or through the activity of others, in whole or in part, any article or articles, substance or substances, commodity or commodities, the amount of the tax to be equal to the value of the articles, substances, or commodities, manufactured, compounded, canned, preserved, packed, printed, milled, processed, refined, or prepared, for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding, preparing, or printing them, multiplied by one-half of one per cent.
  - (B) The measure of the tax on manufacturers is the value of the entire product for sale, regardless of the place of sale or the fact that deliveries may be made to points outside the State.

- (C) If any person liable for the tax on manufacturers ships or transports the person's product, or any part thereof, out of the State, whether in a finished or unfinished condition, or sells the same for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), the value of the products in the condition or form in which they exist immediately before entering interstate or foreign commerce, determined as hereinafter provided, shall be the basis for the assessment of the tax imposed by this paragraph. This tax shall be due and payable as of the date of entry of the products into interstate or foreign commerce, whether the products are then sold or not. The department of taxation shall determine the basis for assessment, as provided by this paragraph, as follows:
- (i) If the products at the time of their entry into interstate or foreign commerce already have been sold, the gross proceeds of sale, less the transportation expenses, if any, incurred in realizing the gross proceeds for transportation from the time of entry of the products into interstate or foreign commerce, including insurance and storage in transit, shall be the measure of the value of the products.
  - (ii) If the products have not been sold at the time of their entry into interstate or foreign commerce, and in cases governed by clause (i) in which the products are sold under circumstances such that the gross proceeds of sale are not indicative of the true value of the products, the value of the products constituting the basis for assessment shall correspond as nearly as possible to the gross proceeds of sales for delivery outside the State, adjusted as provided in clause (i), or if sufficient data are not available, sales in the State, of similar products of like quality and character and in similar quantities, made by the taxpayer (unless not indicative of the true value) or by others. Sales outside the State, adjusted as provided in clause (i), may be considered when they constitute the best available data. The department shall prescribe uniform and equitable rules for ascertaining such values.
  - (iii) At the election of the taxpayer and with the approval of the department, the taxpayer may make the taxpayer's returns under clause (i) even though the products have not been sold at the time of their entry into interstate or foreign commerce.
  - (iv) In all cases in which products leave the State in an unfinished condition, the basis for assessment shall be adjusted so as to deduct such portion of the value as is attributable to the finishing of the goods outside the State.
- (2) Tax on business of selling tangible personal property; producing.
- (A) Upon every person engaging or continuing in the business of selling any tangible personal property whatsoever (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied, and shall be assessed and collected, a tax equivalent to four per cent of the gross

proceeds of sales of the business; provided that insofar as certain retailing is taxed by section 237-16, the tax shall be that levied by section 237-16, and in the case of a wholesaler, the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business. Upon every person engaging or continuing within this State in the business of a producer, the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business, or the value of the products, for sale, if sold for delivery outside the State or shipped or transported out of the State, and the value of the products shall be determined in the same manner as the value of manufactured products covered in the cases under paragraph (1)(C).

- (B) Gross proceeds of sales of tangible property in interstate and foreign commerce shall constitute a part of the measure of the tax imposed on persons in the business of selling tangible personal property, to the extent, under the conditions, and in accordance with the provisions of the Constitution of the United States and the acts of the Congress of the United States which may be now in force or may be hereafter adopted, and whenever there occurs in the State an activity to which, under the Constitution and acts of Congress, there may be attributed gross proceeds of sales, such gross proceeds shall be so attributed.
- (C) No manufacturer or producer, engaged in such business in the State and selling the manufacturer's or producer's products for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), shall be required to pay the tax imposed in this chapter for the privilege of so selling the products, and the value or gross proceeds of sales of the products shall be included only in determining the measure of the tax imposed upon the manufacturer or producer as such.
- (D) When a manufacturer or producer, engaged in such business in the State, also is engaged in selling the manufacturer's or producer's products in the State at wholesale, retail, or in any other manner, the tax for the privilege of engaging in the business of selling the products in the State shall apply to the manufacturer or producer as well as the tax for the privilege of manufacturing or producing in the State, and the manufacturer or producer shall make the returns of the gross proceeds of the wholesale, retail, or other sales required for the privilege of selling in the State, as well as making the returns of the value or gross proceeds of sales of the products required for the privilege of manufacturing or producing in the State. The manufacturer or producer shall pay the tax imposed in this chapter [at the highest rate applicable for any of the privileges exercised by the manufacturer or producer in respect of the particular products,] for the privilege of selling its products in the State, and the value or gross proceeds of sales of the products, thus subjected to tax [at the highest rate], may be deducted insofar as duplicated as to the same products by the measure of the tax upon the manufacturer or producer for the [other privileges enumerated in this paragraph, paragraph (1),

and section 237-16;] privilege of manufacturing or producing in the State; except that no producer of agricultural products who sells the products to a purchaser who will process the products outside the State shall be required to pay the tax imposed in this chapter for the privilege of producing or selling those products.

- (E) A taxpayer selling to a federal cost-plus contractor may make the election provided for by paragraph (3)(C), and in any such case the tax shall be computed pursuant to the election, notwithstanding this paragraph or paragraph (1) to the contrary.
  - (F) The department, by rule, may provide that a seller may take from the purchaser of tangible personal property a certificate, in such form as the department shall prescribe, certifying that the sale is a sale at wholesale. If the certificate is so provided for by rule of the department:
    - (i) Any purchaser who furnishes such a certificate shall be obligated to pay to the seller, upon demand, if the sale in fact is not at wholesale, the amount of the additional tax which by reason thereof is imposed upon the seller; and
    - (ii) The absence of such a certificate, unless the sales of the business are exclusively at wholesale, in itself shall give rise to the presumption that the sale is not at wholesale.
- (3) Tax upon contractors.
- (A) Upon every person engaging or continuing within the State in the business of contracting, the tax shall be equal to four per cent of the gross income of the business; provided that insofar as the business of contracting is taxed by section 237-16, which relates to certain retailing, the tax shall be that levied by section 237-16.
  - (B) In computing the tax levied under this paragraph or section 237-16, there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the measure of the tax levied under subparagraph (A) or section 237-16, on:
    - (i) Another taxpayer who is a contractor, as defined in section 237-6;
    - (ii) A specialty contractor, duly licensed by the department of commerce and consumer affairs pursuant to section 444-9, in respect of the specialty contractor's business as such; or
    - (iii) A specialty contractor who is not licensed by the department of commerce and consumer affairs pursuant to section 444-9, but who performs contracting activities on federal military installations and nowhere else in this State,
 if the tax on the amount so deducted has been paid by the other person, or has been withheld by the taxpayer and shall be paid over by the taxpayer to the assessor at the time of filing the return, such withholding being authorized by this paragraph; but any person claiming a deduction under this paragraph shall be required to show in the person's return the name of the person paying the tax on the amount deducted by

the person or from whom the tax was withheld, and shall issue a receipt for any amount of tax withheld, which upon filing by the other taxpayer with the taxpayer's return, shall relieve the other taxpayer of liability for the amount of tax withheld.

- (C) In computing the tax levied under this paragraph against any federal cost-plus contractor, there shall be excluded from the gross income of the contractor so much thereof as fulfills the following requirements:
- (i) The gross income exempted shall constitute reimbursement of costs incurred for materials, plant, or equipment purchased from a taxpayer licensed under this chapter, not exceeding the gross proceeds of sale of the taxpayer on account of the transaction.
  - (ii) The taxpayer making the sale shall have certified to the department that the taxpayer is taxable with respect to the gross proceeds of the sale, and that the taxpayer elects to have the tax on such gross income computed the same as upon a sale to the state government.
- (D) A person who, as a business or as a part of a business in which the person is engaged, erects, constructs, or improves any building or structure, of any kind or description, or makes, constructs, or improves any road, street, sidewalk, sewer, or water system, or other improvements on land held by the person (whether held as a leasehold, fee simple, or otherwise), upon the sale or other disposition of the land or improvements, even if the work was not done pursuant to a contract, shall be liable to the same tax as if engaged in the business of contracting, unless the person shows that at the time the person was engaged in making the improvements it was, and for the period of at least one year after completion of the building, structure, or other improvements, it continued to be the person's purpose to hold and not sell or otherwise dispose of the land or improvements. The tax in respect of the improvements shall be measured by the amount of the proceeds of the sale or other disposition that is attributable to the erection, construction, or improvement of such building or structure, or the making, constructing, or improving of the road, street, sidewalk, sewer, or water system, or other improvements. The measure of tax in respect of the improvements shall not exceed the amount which would have been taxable had the work been performed by another, subject as in other cases to the deductions allowed by subparagraph (B). Upon the election of the taxpayer, this paragraph may be applied notwithstanding the improvements were not made by the taxpayer, or were not made as a business or as a part of a business, or were made with the intention of holding the same. However, this paragraph shall not apply in respect of any proceeds that constitute or are in the nature of rent; all such gross income shall be taxable under paragraph (10).
- (4) Tax upon theaters, amusements, radio broadcasting stations, etc. Upon every person engaging or continuing within the State in the business of operating a theater, opera house, moving picture show,

vaudeville, amusement park, dance hall, skating rink, radio broadcasting station, or any other place at which amusements are offered to the public, the tax shall be equal to four per cent of the gross income of the business.

- (5) Tax upon sales representatives, etc. Upon every person classified as a representative or purchasing agent under section 237-1, engaging or continuing within the State in the business of performing services for another, other than as an employee, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the commissions and other compensation attributable to the services so rendered by the person.
- (6) Tax on service business. Upon every person engaging or continuing within the State in any service business or calling not otherwise specifically taxed under this chapter, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income of any such business; provided that where any person engaging or continuing within the State in any service business or calling renders such services upon the order of or at the request of another taxpayer who is engaged in the service business and who, in fact, acts as or acts in the nature of an intermediary between the person rendering such services and the ultimate recipient of the benefits of such services, so much of the gross income as is received by the person rendering the services shall be subjected to the tax at the rate of one-half of one per cent and all of the gross income received by the intermediary from the principal shall be subjected to a tax at the rate of four per cent; and provided that where any person is engaged in the business of selling interstate or foreign common carrier telecommunication services within and without the State, the tax shall be imposed on that portion of gross income received by any such person from service which is originated or terminated in this State and is charged to a telephone number, customer, or account in this State notwithstanding any other state law (except for the exemption under section 237-23(a)(1)) to the contrary. If, under the Constitution and laws of the United States, the entire gross income as determined under this paragraph of a business selling interstate or foreign common carrier telecommunication services cannot be included in the measure of the tax, such gross income shall be apportioned as provided in section 237-21; provided that the apportionment factor and formula shall be the same for all persons providing such services in the State.
- (7) Tax on insurance solicitors and agents. Upon every person engaged as a licensed solicitor, general agent, or subagent pursuant to chapter 431, there is hereby levied and shall be assessed and collected a tax equal to .15 per cent of the commissions due to such activity.
- (8) Professions. Upon every person engaging or continuing within the State in the practice of a profession, including those expounding the religious doctrines of any church, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income on the practice or exposition.
- (9) Tax on receipts of sugar benefit payments. Upon the amounts received from the United States government by any producer of sugar (or the producer's legal representative or heirs), as defined under and by virtue of the Sugar Act of 1948, as amended, or other

acts of the Congress of the United States relating thereto, there is hereby levied a tax of one-half of one per cent of the gross amount received, provided that the tax levied hereunder on any amount so received and actually disbursed to another by such producer in the form of a benefit payment shall be paid by the person or persons to whom such amount is actually disbursed, and the producer actually making any such benefit payment to another shall be entitled to claim on the producer's return a deduction from the gross amount taxable hereunder in the sum of the amount so disbursed. The amounts taxed under this paragraph shall not be taxable under any other paragraph, subsection, or section of this chapter.

- (10) Tax on other business. Upon every person engaging or continuing within the State in any business, trade, activity, occupation, or calling not included in the preceding paragraphs or any other provisions of this chapter, there is likewise hereby levied and shall be assessed and collected, a tax equal to four per cent of the gross income thereof. In addition, the rate prescribed by this paragraph shall apply to a business taxable under one or more of the preceding paragraphs or other provisions of this chapter, as to any gross income thereof not taxed thereunder as gross income or gross proceeds of sales or by taxing an equivalent value of products, unless specifically exempted."

SECTION 2. Section 237-24, Hawaii Revised Statutes, is amended to read as follows:

"**§237-24 Amounts not taxable.** This chapter shall not apply to the following amounts:

- (1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;
- (2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;
- (3) Amounts received under any accident insurance or health insurance policy or contract or under workers' compensation acts or employers' liability acts, as compensation for personal injuries, death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;
- (4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;
- (5) Amounts received by any person as compensatory damages for any tort injury to the person, or to the person's character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);
- (6) Amounts received as salaries or wages for services rendered by an employee to an employer;



- (7) Amounts received as alimony and other similar payments and settlements;
- (8) Amounts collected by distributors as fuel taxes on "liquid fuel" imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any act of the Congress of the United States;
- (9) Taxes on liquor imposed by chapter 244D on dealers holding permits under that chapter;
- (10) The amounts of taxes on cigarettes and tobacco products imposed by chapter 245 on wholesalers or dealers holding licenses under that chapter and selling the products at wholesale;
- (11) Federal excise taxes imposed on articles sold at retail and collected from the purchasers thereof and paid to the federal government by the retailer;
- (12) The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the State, paid by the manufacturer to the federal government;
- (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;
- (14) Amounts received by a producer of sugarcane from the manufacturer to whom the producer sells the sugarcane, where:
  - (A) The producer is an independent cane farmer, so classed by the [secretary] Secretary of [agriculture] Agriculture under the Sugar Act of 1948 (61 Stat. 922, Chapter 519) as the Act may be amended or supplemented;
  - (B) The value or gross proceeds of sale of the sugar, and other products manufactured from the sugarcane, is included in the measure of the tax levied on the manufacturer under section 237-13(1)[;] or 237-13(2);
  - (C) The producer's gross proceeds of sales are dependent upon the actual value of the products manufactured therefrom or the average value of all similar products manufactured by the manufacturer; and
  - (D) The producer's gross proceeds of sales are reduced by reason of the tax on the value or sale of the manufactured products;
- (15) Money paid by the State or eleemosynary child-placing organizations to foster parents for their care of children in foster homes; and
- (16) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by such corporation for lease rental, real property taxes, and other expenses of operating and maintaining the cooperative land and improvements; provided that such a cooperative corporation is a corporation:
  - (A) Having one and only one class of stock outstanding;
  - (B) Each of the stockholders of which is entitled solely by reason of the stockholder's ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building owned or leased by the corporation; and
  - (C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation."

SECTION 3. Section 237-25, Hawaii Revised Statutes, is amended to read as follows:

**“§237-25 Exemptions of sales and gross proceeds of sales to federal government.** (a) Any provision of law to the contrary notwithstanding, there shall be exempted from, and excluded from the measures of, the tax imposed by chapter 237 all sales, and the gross proceeds of all sales, of:

- (1) Intoxicating liquor, as defined in chapter 281, hereafter sold by any person licensed under chapter 281 to the United States (including any agency or instrumentality thereof that is wholly owned or otherwise so constituted as to be immune from the levy of a tax under chapter 238 or 244D but not including national banks), or to any organization to which such sale is permitted by the proviso of “Class 3” of section 281-31, located on any [army, navy, or air force] Army, Navy, or Air Force reservation, but the person making the sale shall nevertheless, within the meaning of chapters 237, 244D, and 281 be deemed to be a licensed seller[.];
- (2) Tobacco products and cigarettes, as defined in chapter 245, sold by any person licensed under the chapter to the United States (including any agency or instrumentality thereof that is wholly owned or otherwise so constituted as to be immune from the levy of a tax under chapter 238 or 245 but not including national banks), but the person making the sale shall nevertheless, within the meaning of chapters 237 and 245, be deemed to be a licensed seller[.];
- (3) Other tangible personal property [hereafter] sold by any person licensed under this chapter to the United States (including any agency or instrumentality thereof but not including national banks), but the person making such sale shall nevertheless, within the meaning of this chapter, be deemed a licensed seller[.]; and
- (4) When the amount of property sold by a licensee turns upon the amount of the property sold through a vending machine or similar device to the customer using the device, there shall not be deemed to have occurred any sale covered by an exemption under paragraph (1), (2), or (3).

(b) Nothing in this section shall be deemed to exempt any sales to or by a federal cost-plus contractor, as defined in chapter 237, or the gross proceeds thereof; with respect to all such activities and transactions, taxes shall be levied, returned, computed, and assessed the same as if this section had not been enacted, and in the case of an election made under sections 237-13(2)(F) and 237-13(3)(C)(ii), the tax shall be computed the same as upon a sale to the state government.

(c) Nothing in this section shall be deemed to exempt any person engaging or continuing in a service business or calling from any part of the tax imposed upon the person for such activity, and the person shall not be entitled to deduct any amount for tangible personal property furnished in conjunction therewith even though the person separately bills or otherwise shows the amount of the gross income of the business derived from the furnishing of the property.

[(d) Millers or processors of sugar, and canners of pineapple and pineapple juice, whether milling, processing, or canning in the State or not, shall be exempt from tax only when the products are sold, as provided in subsection (a), for use and consumption in the State. The manufacturers, claiming tax exemption for such products, shall furnish the department of taxation certificates of the purchasers, in the form prescribed by the department, certifying that such products

## ACT 142

have been purchased for use and consumption in the State. As to sugar, pineapple, and pineapple juice, milled, processed, or canned in the State and sold as provided in subsection (a) but not for use and consumption in the State, the miller, processor, or canner shall be exempt from tax as provided in section 237-29.5.

(e) (d) The exemption granted by this section shall apply to the seller of products sold in the State as provided in subsection (a) in respect of the privilege of manufacturing or producing, as well as the privilege of selling, and the value or gross proceeds of sales of the products so sold shall be excluded from the measure of the tax imposed by chapter 237 upon the seller as a manufacturer or producer[, as provided in subsection (d)].”

SECTION 4. Section 237-29.5, Hawaii Revised Statutes, is amended to read as follows:

“**§237-29.5 Exemption for sales of tangible personal property shipped out of the State.** (a) There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the value or gross proceeds arising from the manufacture, production, or sale of tangible personal property:

- (1) Shipped by the manufacturer, producer, or seller to a point outside the State where the property is resold or otherwise consumed or used outside the State [in the purchaser’s or the taxpayer’s business]; or
- (2) The sale of which is exempt under section 237-24.3(2).

(b) For the purposes of this section, the manufacturer, producer, or seller shall take from the purchaser, a certificate, in such form as the department shall prescribe, certifying that the tangible personal property purchased is to be resold or otherwise consumed or used outside the State [in the purchaser’s business]. Any purchaser who shall furnish such a certificate shall be obligated to pay to the seller, upon demand, if the property purchased is not resold or otherwise consumed or used outside the State [in the purchaser’s business], the amount of the additional tax which by reason thereof is imposed upon the seller.”

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

SECTION 6. This Act, upon its approval, shall apply to all taxable years beginning after December 31, 1994.

(Approved June 8, 1994.)

## ACT 142

S.B. NO. 2965

A Bill for an Act Relating to a State Generation-Skipping Transfer Tax.

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

SECTION 1. Chapter 236D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§236D- Generation-skipping transfers; tax imposed; credit for tax paid other state.** (a) A tax in an amount equal to the federal credit is imposed on every generation-skipping transfer of:

- (1) Property located in this State; and
  - (2) Property from a resident trust.
- (b) If the generation-skipping transfer is subject in another state to a similar tax and qualifies for the federal credit, the amount of the tax due under this section shall be credited with the lesser of:
- (1) The amount of the tax paid to the other state and credited against the federal tax; or
  - (2) An amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property subject to the generation-skipping transfer tax paid to the other state, and the denominator of which is the value of all property subject to the federal generation-skipping transfer tax.

If paragraph (1) or (2) results in an amount less than the total federal credit allowed being paid to all states which may claim any part of the credit, then the interested states may agree to a fair and equitable apportionment of the credit without regard to the residence of the trust.”

SECTION 2. Section 236D-2, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

“Generation-skipping transfer” means a generation-skipping transfer as defined and used in section 2611 of the federal Internal Revenue Code of 1986, as amended or renumbered.

“Resident trust” means a trust the administration of which is carried on wholly in the State; or if the administration is partly carried on in the State and partly outside the State, a trust of which one-half or more of the fiduciaries reside in the State.”

SECTION 3. Section 236D-2, Hawaii Revised Statutes, is amended by amending the definitions of “federal credit”, “gross estate”, “personal representative”, “property”, “section 2011”, “taxable estate”, and “transfer” to read as follows:

“Federal credit” means:

- (1) For a transfer, the maximum amount of the credit for [estate] state death taxes allowed by section 2011 for the decedent’s adjusted taxable estate[.]; and
- (2) For a generation-skipping transfer, the maximum amount of the credit for state taxes allowed by section 2604 of the federal Internal Revenue Code of 1986, as amended or renumbered.

“Gross estate” means gross estate as defined and used in sections 2031 to 2045 of the federal Internal Revenue Code of [1954,] 1986, as amended or renumbered.

“Personal representative” means the personal representative of a decedent appointed under chapter 560, and includes an executor (as defined under section 2203 of the federal Internal Revenue Code of [1954,] 1986, as amended or renumbered), administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

“Property” means:

- (1) For a transfer, property included in the gross estate[.]; and
- (2) For a generation-skipping transfer, all real and personal property subject to the federal generation-skipping transfer tax.

“Section 2011” means section 2011 of the federal Internal Revenue Code of [1954,] 1986, as amended or renumbered.

“Taxable estate” means taxable estate as defined in sections 2051 to 2056 of the federal Internal Revenue Code of [1954,] 1986, as amended or renumbered.

“Transfer” means transfer as defined and used in section 2001 of the federal Internal Revenue Code of [1954,] 1986, as amended or renumbered.”

SECTION 4. Section 236D-5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§236D-5**~~]]~~ **Tax reports; date to be filed; extensions.** (a) The personal representative of every estate subject to the estate tax imposed by this chapter who is required by the laws of the United States to file a federal estate tax return shall file with the department on or before the date the federal estate tax return is required to be filed, including any extension of time for filing the federal estate tax return:

- (1) A report for the estate taxes due under this chapter; and
- (2) A true copy of the federal estate tax return.

~~(b)~~ The person required to report and pay the federal generation-skipping transfer tax to which the federal credit applies shall file with the department on or before the date the federal generation-skipping transfer tax return is required to be filed, including any extension of time for filing the federal return:

- (1) A report for the generation-skipping transfer tax due under section 236D-\_\_\_\_\_ ; and
- (2) A true copy of the federal generation-skipping transfer tax return.

~~[(b)]~~ (c) If the [personal representative] person required to file the return has obtained an extension of time for filing the federal return, the filing required by subsection (a) or (b) shall be extended similarly until the end of the time period granted in the extension of time for the federal return. A true copy of the extension shall be filed with the department within thirty days of issuance.

~~[(c)]~~ (d) No Hawaii report need be filed if the estate is not subject to the estate tax imposed by this chapter.

~~[(d)]~~ (e) If the estate is not subject to the estate tax imposed by this chapter, the personal representative may apply to the department for the issuance of the release provided in this chapter. The release, when issued, shall indicate that it has been determined that the estate is not subject to the estate tax and that the estate and the personal representative are free of any claim by the State for estate taxes owed under this chapter.”

SECTION 5. Section 236D-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The taxes imposed by this chapter shall be paid [by the personal representative] to the department on or before the date the return for the taxes is required to be filed under section 236D-5.”

SECTION 6. Section 236D-7, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) If the report provided for in section 236D-5 is not filed within the time periods specified, then [the personal representative shall pay,] there shall be paid, in addition to the interest provided in this section, a penalty equal to five per

cent of the tax due in respect to the transfer or generation-skipping transfer for each month beyond the time periods that the report has not been filed, but no penalty so imposed shall exceed a total of twenty-five per cent of the tax.

(c) If the [personal representative] person required to pay the tax has obtained an extension of time for payment of the federal tax, the [personal representative] person may elect to extend the time for payment of the tax due under this chapter in accordance with the extension. The election shall be made by filing a true copy of the extension of time for payment with the report and the returns required under section 236D-5.”

SECTION 7. Section 236D-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department shall issue an automatic release of estate tax liability to the personal representative when:

- (1) No estate tax is imposed by this chapter and upon the receipt of a request for a release, if the release includes the sworn statement of the personal representative or agent that in fact no taxes are due; or
- (2) The estate taxes due under this chapter have been paid as prescribed in section 236D-6, and the request for a release includes the sworn statement of the personal representative that in fact all taxes due have been paid.”

SECTION 8. Section 236D-9, Hawaii Revised Statutes, is amended to read as follows:

“**[[§236D-9]] Amended returns; final determination.** (a) If [the personal representative files] an amended federal return[, the personal representative immediately shall file] is filed, there immediately shall be filed with the department an amended Hawaii report with a true copy of the amended federal return. If [the personal representative is required to pay] an additional tax under this chapter is required to be paid pursuant to the amended return, the [personal representative] person required to pay the tax shall pay the additional tax, together with interest as provided in section 236D-7, at the same time [the personal representative files] the amended return[, is filed, subject to any extension election under section 236D-7.

(b) Upon final determination of the federal tax due [with respect to any transfer], the [personal representative,] person, within sixty days after the determination, shall give written notice of the determination to the department in such forms as may be prescribed. If any additional tax is due under this chapter by reason of the determination, the [personal representative] person shall pay the tax, together with interest as provided in section 236D-7, at the same time [the personal representative files] the notice[, is filed, subject to any extension election under section 236D-7.”

SECTION 9. Section 236D-11, Hawaii Revised Statutes, is amended to read as follows:

“**[[§236D-11]] Sale of property to pay tax; creation of lien.** (a) Subject to chapter 560 and section 531-29, as applicable, a personal representative may sell so much of any property as is necessary to pay the estate taxes due under

this chapter. A personal representative may sell so much of any property specifically bequeathed or devised as is necessary to pay the proportionate amount of the taxes due on the transfer of the property and the fees and expenses of the sale, unless the legatee or devisee thereof pays the personal representative the proportionate amount of the taxes due.

(b) Unless any estate tax due is sooner paid in full, it shall be a lien upon the gross estate of the decedent for a period of ten years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of the lien. Liens created under this subsection shall be qualified as follows:

- (1) The limitation period, as described in this subsection, in each case shall be extended for a period of time equal to the period of pendency of litigation of questions affecting the determination of the amount of tax due; provided a lis pendens has been filed with the bureau of conveyances or land court in the county in which the property is located;
- (2) Any part of the gross estate which is transferred to a bona fide purchaser shall be divested of the lien and the lien shall be transferred to the proceeds arising out of the transfer; and
- (3) A mortgage on property pursuant to an order of court for payment of charges against the estate and expenses of administration shall constitute a lien upon the property prior and superior to the tax lien, which tax lien shall attach to the proceeds."

SECTION 10. Section 236D-12, Hawaii Revised Statutes, is amended:

1. By amending subsections (a) and (b) to read as follows:

"(a) Any personal representative who distributes any property without first paying, securing another's payment of, or furnishing security for payment of the estate taxes due under this chapter is personally liable for the taxes due to the extent of the value of any property that may come or may have come into the possession of the personal representative. Security for payment of the estate taxes due under this chapter shall be in an amount equal to or greater than the value of all property that is or has come into the possession of the personal representative, as of the time the security is furnished.

(b) Any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent outside Hawaii without first paying, securing another's payment of, or furnishing security for payment of the estate taxes due under this chapter is liable for the taxes [due under this chapter] to the extent of the value of the property delivered. Security for payment of the estate taxes due under this chapter shall be in an amount equal to or greater than the value of all property delivered to the personal representative or legal representative of the decedent outside Hawaii by such a person."

2. By amending subsection (d) to read as follows:

"(d) For the purposes of this section, any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent may rely upon the release furnished by the department to the personal representative as evidence of

compliance with the requirements of this chapter, and make such deliveries and transfers as the personal representative may direct without being liable for any estate taxes due under this chapter.”

SECTION 11. Section 236D-14, Hawaii Revised Statutes, is amended to read as follows:

“**[§236D-14] Criminal acts relating to estate and generation-skipping transfer tax returns.** Any person who wilfully fails to file [an] a Hawaii estate or generation-skipping transfer tax return when required by this chapter or who wilfully files a false return commits a misdemeanor.”

SECTION 12. Section 236D-15, Hawaii Revised Statutes, is amended to read as follows:

“**§236D-15 Administration by department; action for collection of tax; appeal.** The department may collect the [tax] taxes provided for in this chapter, including applicable interest and penalties, and shall represent this State in all matters pertaining to this chapter, either before courts or in any other manner. The department, through the attorney general, may institute proceedings for the collection of [this tax] the taxes and any interest and penalties on the [tax.] taxes.

The circuit court for any county which has assumed lawful jurisdiction over the property of the decedent for general probate or administration purposes under the laws of Hawaii shall have jurisdiction to hear and determine all questions in relation to the estate tax arising under this chapter. If no probate or administration proceedings have been taken out in any court of this State, the circuit court for the county in which the decedent was a resident, if the decedent was a domiciliary, or, if the decedent was a nondomiciliary, any court which has sufficient jurisdiction over the property of the decedent, the transfer of which is taxable, to issue probate or administration proceedings thereon, had the same been justified by the legal status of the property or had the same been applied for, shall have jurisdiction. Any such court first acquiring jurisdiction shall retain the same to the exclusion of every other. The tax appeal court shall have jurisdiction to hear and determine all questions in relation to the generation-skipping transfer tax arising under this chapter.

Any person aggrieved by any assessment of the tax imposed by this chapter may appeal from the assessment to a court of competent jurisdiction within the time set forth in section 235-114; provided the tax so assessed shall have been paid. The distribution of taxes paid pending the appeal shall be as provided in chapter 232.”

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 14. This Act, upon its approval, shall apply to generation-skipping transfers after June 30, 1994.

(Approved June 8, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.



A Bill for an Act Relating to Defense of Health Care Providers Under Contract to the Department of Public Safety.

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

SECTION 1. Section 662-16, Hawaii Revised Statutes, is amended to read as follows:

“**§662-16 Defense of state employees.** The attorney general may defend any civil action or proceeding brought in any court against any employee of the State for damage to property or for personal injury, including death, resulting from the act or omission of any state employee while acting within the scope of [his] the employee’s employment. The employee against whom such civil action or proceeding is brought shall deliver within [such] the time after the date of service or knowledge of service as determined by the attorney general, all process or complaint served upon [him] the employee or an attested true copy thereof to [his] the employee’s immediate superior or to whomever was designated by the head of [his] the employee’s department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the department of the attorney general.

No judgment by default shall be entered against a state employee based on a cause of action arising out of an act or omission of such employee while acting within the scope of [his] the employee’s employment unless the department of the attorney general has received a copy of the complaint or other relevant pleadings and a period of twenty days has elapsed from the date of such receipt.

The attorney general may also defend any civil action or proceeding brought in any court against a county based on an allegedly negligent or wrongful act or omission of persons employed by a county as lifeguards and designated to provide lifeguard services at a designated state beach park under an agreement between the State and a county.

The attorney general may also defend any civil action or proceeding brought in any court against any provider of medical, dental, or psychological services pursuant to contract with the department of public safety when the provider is sued for acts or omissions within the contract’s scope of work.”

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

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

(Approved June 8, 1994.)

A Bill for an Act Relating to Milk.

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

SECTION 1. Section 157-1, Hawaii Revised Statutes, is amended by adding twelve new definitions to be appropriately inserted and to read as follows:

“Buttermilk” or “cultured buttermilk” means a fluid product resulting from the souring or treatment, by means of a lactic acid or other culture, of pasteurized skim milk or pasteurized reconstituted skim milk. It contains not less than 8.25 per cent nonfat milk solids.

“Class I milk” includes all fresh milk or fresh milk constituents to be utilized in fluid form for human consumption, including pasteurized milk, cream, half-and-half, whole milk, skim milk, buttermilk, flavored milk, flavored skim milk, reconstituted or recombined milk, and filled milk. All such fresh milk received by a processing plant shall be deemed to be utilized as class I unless utilization is in class II, in an excess pool, or as plant shrinkage and route returns are proven.

“Class II milk” includes all fresh milk or fresh milk constituents to be utilized in non-fluid form for human consumption, including ice cream, ice cream mix, cottage cheese, and yogurt.

“Cream” means the fatty liquid or semi-liquid separated from milk and contains not less than eighteen per cent butterfat.

“Excess pool” means a special pooling technique to be used when fresh milk produced in excess of the total class I and class II requirements of the market and allowable plant shrinkage and route returns is disposed of either at a complete loss or at its highest practical salvage value.

“Flavored milk” or “flavored skim milk” means a beverage or confection consisting of either milk or skimmed milk, to which has been added a syrup or flavor made from wholesome ingredients.

“Half-and-half” means a product consisting of a mixture of milk and cream which contains not less than 10.5 per cent butterfat.

“Pasteurized milk” means fresh milk which has been heated to at least 145 degrees Fahrenheit for at least thirty continuous minutes, or to at least 161 degrees Fahrenheit for at least fifteen continuous seconds, in approved and properly operated equipment.

“Plant shrinkage” means the loss of fresh milk occurring during the processing of milk or milk products and is attributable to such events as leakage, spillage, and unrecoverable milk from vats, pipes, and processing equipment.

“Recombined milk” or “reconstituted milk” means a product which results from the recombining of milk constituents with potable water and which complies with the standards for butterfat and nonfat milk solids of whole milk.

“Route return” means fresh milk returned from retail stores or by retail route customers.

“Skim milk” or “skimmed milk” means fresh milk from which a sufficient portion of butterfat has been removed to reduce the milk’s butterfat content to less than five-tenths per cent.”

SECTION 2. Section 157-15, Hawaii Revised Statutes, is amended to read as follows:

**“§157-15 Audit of books and accounts.** The board of agriculture may examine and audit the books and accounts of licensed producers, producer-distributors, and distributors for the purpose of determining how payments to producers and producer-distributors are computed, whether the amounts of the payments are fair, or whether any provisions of this chapter affecting such payments, directly or indirectly, have been or are being violated. The board may also examine and audit the costs of the production, handling, processing, distribution, and marketing of milk as they may affect such payments, directly or indirectly.

## ACT 145

The board shall conduct [an independent] a monthly audit with Federal Milk Marketing Order specifications which examines and verifies milk utilization by the processing plants [and is immediately released upon completion]. The board may also contract for an independent audit with Federal Milk Marketing Order specifications to examine and verify milk utilization by the processing plants at least once during the fiscal year for each processor when:

- (1) A class I milk only situation exists; and
- (2) Milk is utilized for other than class I purposes or rejected for reasons other than antibiotics, high temperature, low cryoscope, off-flavor, somatic cell count, or as determined necessary by the board.

The audit report for each processing plant shall be made available after completion."

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

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

(Approved June 8, 1994.)

## ACT 145

S.B. NO. 3075

A Bill for an Act Relating to Health Care.

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

SECTION 1. Under the Omnibus Budget Reconciliation Act of 1993 (OBRA '93), state courts are authorized to require an employer that provides dependent health coverage to make that coverage available to an employee's child even though the child is not, for income tax purposes or plan purposes, a legal dependent because of a separation or divorce.

OBRA '93 also amended the Social Security Act to require states to enact laws requiring group health plans to honor qualified medical child support orders as a condition for receiving Medicaid funding. Generally, states are required to adopt such laws for calendar quarters beginning on or after April 1, 1994, but are given until the end of the first regular legislative session beginning after August 10, 1993, to enact this requirement if that date is later. Therefore, in order to continue to receive Medicaid funding, recognition must be afforded to qualified medical child support orders. Additionally, such recognition will ensure that a vulnerable group of children have access to health benefits.

The purpose of this Act is to require employers, who provide health coverage to dependent children of an employee, to recognize a child identified in a qualified medical child support order as an eligible dependent without regard to any enrollment season restrictions.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§431- Qualified medical child support order.** (a) An employer, who provides health coverage to dependent children of an employee, shall recognize a child identified in a qualified medical child support order as an eligible dependent without regard to any enrollment season restrictions.

(b) A qualified medical child support order shall:

- (1) Specify the name and last known mailing address, if any, of the plan member and the name and mailing address of each recipient child covered by the order;
- (2) Include a reasonable description of the type of coverage to be provided to the recipient child, or the manner in which the type of coverage is to be determined;
- (3) State the period during which it applies;
- (4) Specify the plan to which it applies; and
- (5) Not require a plan to provide any type or form of benefit or option that the plan does not otherwise provide.”

SECTION 3. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§432- **Qualified medical child support order.** (a) An employer, who provides health coverage to dependent children of an employee, shall recognize a child identified in a qualified medical child support order as an eligible dependent without regard to any enrollment season restrictions.

(b) A qualified medical child support order shall:

- (1) Specify the name and last known mailing address, if any, of the plan member and the name and mailing address of each recipient child covered by the order;
- (2) Include a reasonable description of the type of coverage to be provided to the recipient child, or the manner in which the type of coverage is to be determined;
- (3) State the period during which it applies;
- (4) Specify the plan to which it applies; and
- (5) Not require a plan to provide any type or form of benefit or option that the plan does not otherwise provide.”

SECTION 4. New statutory material is underscored.<sup>1</sup>

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

(Approved June 8, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 146**

S.B. NO. 3322

A Bill for an Act Relating to Hawaii Air Carriers.

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

SECTION 1. Section 261C-20, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) As of the effective date of enactment of all required federal legislation, any person [providing] who:

ACT 147

- (1) Is providing air transportation with turnaround service between two points, both of which are within the State of Hawaii pursuant to authority granted by the United States Department of Transportation[.]; or
- (2) Has previously applied to the United States Department of Transportation for authority to provide air transportation as a direct air carrier and has proposed in documents filed with the United States Department of Transportation only to operate turnaround service between points within the State of Hawaii pursuant to that authority.

shall be deemed qualified and shall be issued a certificate pursuant to this chapter.”

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

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

(Approved June 8, 1994.)

ACT 147

H.B. NO. 2005

A Bill for an Act Relating to the Rental Housing Trust Fund.

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

SECTION 1. Section 201F-1, Hawaii Revised Statutes, is amended by amending the definition of “nonprofit organization” to read as follows:

““Nonprofit organization” means a corporation, association, or other duly chartered entity which is registered with the State, and which has received [charitable status under] a written determination from the Internal Revenue Service that it is exempt under either section 501(c)(3), section 501(c)(4), or so much of section 501(c)(2) as applies to title holding corporations that turn over their income to organizations that are exempt under either section 501(c)(3) or 501(c)(4), of the Internal Revenue Code of 1986, as amended.”

SECTION 2. Section 201F-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) An amount[, not to exceed one per cent of the rental housing trust fund,] from the trust fund, to be set by the commission and authorized by the legislature, may be used for administrative expenses incurred by the commission in administering the fund; however, trust fund moneys may not be used to finance day-to-day administrative expenses of projects allotted trust fund moneys.”

SECTION 3. Section 201F-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The trust fund shall be used to provide loans or grants for the development, pre-development, construction, acquisition, preservation, and substantial rehabilitation of rental housing units. Permitted uses of the fund may include but

are not limited to planning, design, land acquisition, costs of options, agreements of sale, downpayments, equity financing, capacity building of nonprofit housing developers, or other housing development services or activities as provided in rules adopted by the rental housing trust fund commission pursuant to chapter 91. The rules may provide for a means of recapturing loans or grants made from the rental housing trust fund if a rental housing project financed under the trust fund is refinanced or sold at a later date. The rules may also provide that moneys from the rental housing trust fund shall be leveraged with other financial resources to the extent possible.”

SECTION 4. Section 201F-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the department the rental housing trust fund commission consisting of seven members, five of whom shall be public members and appointed pursuant to section 26-34. The public members of the commission shall serve four-year staggered terms, provided that the initial appointments shall be as follows: two members to be appointed for four years; two members to be appointed for three years; and [two members] one member to be appointed for two years[; and one member to be appointed for one year]. As part of this appointment process, an appropriate organization from each of the categories of organizations enumerated below shall submit a list of three public member nominees to the governor. The governor shall select and appoint one public member from each list.

The public members shall be representative of the following categories of organizations:

- (1) Real estate brokers[/] and rental property managers;
- (2) Tenants[/] and renters advocacy organizations;
- (3) Nonprofit housing developers[/] and low income service providers;
- (4) Mortgage lenders; and
- (5) Architects[/] and planners.

A county government official who shall be appointed for a two-year term on a rotating basis among counties and the director of the department or the director’s designated representative shall be ex officio voting members of the commission.”

SECTION 5. Section 201F-5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§201F-5~~]]~~ **Powers and duties of the commission.** In addition to any other powers and duties granted by this chapter, the commission shall:

- (1) Adopt rules, pursuant to chapter 91, to protect the interests of the fund and to best carry out the purposes of this chapter;
- (2) Define the guidelines, procedures, conditions, and details of loans under this section; provided that the commission shall establish loan-to-value ratios to protect the rental housing trust fund from inordinate risk and that under no circumstances shall the rules permit the loan-to-value ratio to exceed ninety-five per cent; and provided further that the underwriting guidelines include a debt-coverage ratio of not less than 1.05 to 1;
- (3) Evaluate the trust fund program every two years and report its evaluation with suggested changes to the legislature not fewer than

## ACT 148

twenty days before the convening of the regular session of the first year of each fiscal biennium, starting with the 1995-1997 fiscal biennium;

- (4) [Obtain] Have the authority to enter into contracts with consultants and engage employees necessary to perform its duties without regard to chapters 76 and 77, and to obtain the services of technical and support staff from other government agencies[, including the housing finance and development corporation and the Hawaii housing authority], and the department of budget and finance to carry out the purposes of this chapter; and
- (5) Do all things necessary to carry out the functions, powers, and duties set forth in this chapter."

SECTION 6. There is hereby authorized from the rental housing trust fund the sum of \$200,000, or so much thereof as may be necessary, to fund for fiscal year 1994-1995 the administrative expenses incurred by the commission.

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

SECTION 8. This Act shall take effect on July 1, 1994.

(Approved June 9, 1994.)

## ACT 148

H.B. NO. 2945

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Utilities Serving the General Public.

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

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds and refunding special purpose revenue bonds under this Act will assist the utilities providing electric service to the general public in obtaining lower interest rate bond financing for capital improvement projects, through the use of tax exempt special purpose revenue bonds and refunding bonds. This savings in interest cost would be reflected in the electric rates established by the public utilities commission in rate case proceedings. Ratepayers pay for the cost of financing as part of the rates set by the public utilities commission. Therefore, the entire savings resulting from the reduction in capital costs will benefit the ratepayers. Furthermore, these bonds cannot be secured directly or indirectly by the general credit of the counties or the revenues or taxes of the State but rather solely by the utilities. Thus, the cost of financing necessary capital improvements can be decreased with no cost or risk to the State. For the foregoing reasons, the legislature finds and declares that the issuance under this Act of special purpose revenue bonds and refunding special purpose revenue bonds is in the public interest and for the public health, safety, and general welfare of the State. The legislature further finds that Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited, are electric utilities serving the general public that qualify for special purpose revenue bonds pursuant to part VI, chapter 39A, Hawaii Revised Statutes.

SECTION 2. Pursuant to part VI, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor is authorized to issue special purpose revenue bonds in one or more series in a total amount not to exceed \$170,000,000 for the following capital improvement programs which are multi-project programs for the local furnishing of electric energy by electric utilities serving the general public:

<u>Company</u>	<u>Amount of Authorization</u>
Hawaiian Electric Company, Inc. (Oahu) Multi-project capital improvement program, including the acquisition of land, power plant additions, transmission and distribution lines, substations, and other electric systems and facilities, or any combination thereof, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1994, through December 31, 1997 .....	\$70,000,000
Hawaii Electric Light Company, Inc. Multi-project capital improvement program, including the acquisition of land, generating facilities (including three new fossil fuel generating units on the island of Hawaii), power plant additions, transmission and distribution lines, substations, and other electric systems and facilities, or any combination thereof, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1994, through December 31, 1997 .....	\$45,000,000
Maui Electric Company, Limited Multi-project capital improvement program, including the acquisition of land, generating facilities (including one new fossil fuel gathering unit on the island of Maui, and three new fossil fuel generating units on the island of Lanai), power plant additions, transmission and distribution lines, substations, and other electric systems and facilities, or any combination thereof, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1994, through December 31, 1997 .....	\$55,000,000

provided that public utilities commission approval shall be required for any project financed by the issuance of special purpose revenue bonds under this Act; and provided further that, of the amount authorized in this section, none shall be used for nuclear fuel generating units.

SECTION 3. Pursuant to part VI, chapter 39A, Hawaii Revised Statutes, the department of budget and finance is authorized to issue from time to time, including times subsequent to December 31, 1997, refunding special purpose revenue bonds in whatever principal amounts the department shall determine to be



## ACT 149

necessary to refund the special purpose revenue bonds authorized in Section 2, and any refunding special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption, and the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in Section 2. In making this determination, the department of budget and finance shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 4. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part VI, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds and refunding special purpose revenue bonds to assist utilities serving the general public in providing electric energy.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on December 31, 1997.

SECTION 6. The public utilities commission shall report annually to the legislature as to the progress under this Act in reducing financing costs of electric utilities, including the cost of the bonds at the time of issue as compared to the cost to the utility if the issue was made on other than under the revenue bond provision, the estimated benefits derived from the use of the special purpose revenue bonds, and a listing of the projects to be funded by the special purpose revenue bonds.

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

(Approved June 9, 1994.)

## ACT 149

H.B. NO. 3140

A Bill for an Act Relating to the Hawaii Community Development Authority.

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

SECTION 1. Act 155, Session Laws of Hawaii 1984, is amended by amending section 1 to read as follows:

“SECTION 1. Bonds may be issued by the Hawaii community development authority pursuant to section 206E-6, Hawaii Revised Statutes, in an aggregate principal amount not to exceed [~~\$30,000,000~~] \$60,000,000 at such times and in such amounts as it deems advisable for the purpose of undertaking and maintaining any of the district-wide improvement programs in said section.”

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

SECTION 3. This Act shall take effect on July 1, 1994.

(Approved June 9, 1994.)

ACT 150

H.B. NO. 3144

A Bill for an Act Relating to State Officers and Employees Excluded from Collective Bargaining and Making Appropriations and Other Adjustments.

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

PART I

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

Section 89C-2, Hawaii Revised Statutes, provides for compensation, terms, and conditions of employment for public officers and employees who are excluded from collective bargaining. To maintain parity with employees in bargaining unit 7, and based on a settlement for a two-year collectively bargained agreement with the exclusive representative of bargaining unit 7, an immediate appropriation is needed to fund salary increases and other cost adjustments, including retroactive payments, for certain excluded executive and judicial officers and employees.

SECTION 2. There are appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, and Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 1993-1995, the salary increases and other cost adjustments authorized pursuant to chapter 89C, Hawaii Revised Statutes, by the governor, the board of education, and the board of regents, as applicable, for officers and employees of the State, the department of education, and the University of Hawaii who are excluded from collective bargaining:

	<u>FY 1993-1994</u>	<u>FY 1994-1995</u>
General Funds	\$ 41,736	\$ 269,846

SECTION 3. Funds appropriated or authorized by this part shall be allotted by the director of finance in the respective fiscal years for the purposes of this part.

PART II

SECTION 4. There are appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 1993-1995, the salary increases and other cost adjustments authorized pursuant to chapter 89C, Hawaii Revised Statutes, by the chief justice for officers and employees of the judiciary who are excluded from collective bargaining:

	<u>FY 1993-1994</u>	<u>FY 1994-1995</u>
General Funds	\$ 0	\$ 2,344

SECTION 5. The sums appropriated or authorized by this part shall be

**ACT 151**

allotted by the chief justice in the respective fiscal years for the purposes of this part.

**PART III**

SECTION 6. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds, shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 7. Funds appropriated or authorized by this Act that are not expended or encumbered by the last day of the fiscal year for which they were appropriated or authorized shall lapse as of those dates.

**PART IV**

SECTION 8. There are appropriated out of the general revenues of the State of Hawaii to the legislative agencies indicated below, the following sums, or so much thereof as may be necessary, to fund for the fiscal years 1993-1994 and 1994-1995, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for officer and employees in these agencies excluded from collective bargaining:

	<u>FY 1993-1994</u>	<u>FY 1994-1995</u>
Office of the Auditor	\$ 0	\$ 76,146
Ethics Commission	\$ 0	\$ 16,878
Legislative Reference Bureau	\$ 0	\$ 70,402
Ombudsman	\$ 0	\$ 29,257

SECTION 9. The sums appropriated by this part shall be expended by the respective heads of the legislative agencies.

SECTION 10. This Act, upon its approval, shall take effect retroactive to July 1, 1993.

(Approved June 9, 1994.)

**ACT 151**

H.B. NO. 3198

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

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

SECTION 1. Section 41 of Act 280, Session Laws of Hawaii 1993, is repealed.

["SECTION 41. Section 304-8.7, Hawaii Revised Statutes, is amended to read as follows:

“[[§304-8.7] University of Hawaii at Manoa intercollegiate athletics

**revolving fund and University of Hawaii at Hilo intercollegiate athletics revolving fund.** Notwithstanding any other law to the contrary, there are established revolving funds for the intercollegiate athletic programs of the University of Hawaii at Manoa and the University of Hawaii at Hilo, which shall be used to receive, deposit, disburse, and account for funds from the activities of the intercollegiate athletic programs. The university may establish appropriate charges for activities related to its athletic programs and the use of its athletic facilities, the proceeds from which shall be deposited into these revolving funds.

The university shall maintain the financial integrity and viability of these revolving funds, including the maintenance of an adequate reserve to cope with the various factors that impact the revenue structure of an intercollegiate athletic program.] **Intercollegiate athletic programs of the University of Hawaii at Manoa and the University of Hawaii at Hilo; establishment of charges; disposition of receipts.** (a) The university may establish appropriate charges for activities related to its athletic programs and the use of its athletic facilities. All proceeds received out of the fees and charges established under this section shall be deposited to the credit of the state general fund.

(b) All moneys to carry out the intercollegiate programs of the University of Hawaii shall be allocated by the legislature through appropriations made out of the state general fund.

(c) The university shall include in its budgetary request for each upcoming fiscal period, the amounts necessary to carry out the purposes of this section.”]

SECTION 2. Act 280, Session Laws of Hawaii 1993, is amended by amending section 64 to read as follows:

“SECTION 64. This Act shall take effect on July 1, 1993, except that sections 19, 21, 25, and 38[, and 41] shall take effect on June 30, 1994; provided that the director of finance shall transfer to the credit of the state general fund:

- (1) On July 1, 1993, all unexpended or unencumbered balances remaining in any special or revolving fund scheduled for repeal on July 1, 1993, under this Act; and
- (2) On June 30, 1994, all unexpended or unencumbered balances remaining in any special or revolving fund scheduled for repeal on June 30, 1994, under this Act.”

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

SECTION 4. This Act shall take effect on June 29, 1994.

(Approved June 9, 1994.)

## ACT 152

H.B. NO. 3333

A Bill for an Act Relating to the Panaewa Residential Lots.

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

SECTION 1. The purpose of this Act is to appropriate funds to repair,

remove, replace, or restore the homes in the Panaewa residential lots, units 3 and 4.

SECTION 2. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (f) to read as follows:

“(f) Hawaiian home administration account. The entire receipts derived from any leasing or other disposition of the available lands pursuant to section 204(2) and transfers from the Hawaiian home receipts fund shall be deposited into this account. Any interest or other earnings arising out of investments from this fund and any amounts recovered from any party involved with the construction or development of the homes in Panaewa residential lots, units 3 and 4 shall be credited to and deposited into this fund. The moneys in this account shall be expended by the department for salaries and other administration expenses of the department in conformity with general law applicable to all departments of the State, and no sums shall be expended for structures and other permanent improvements. This account shall be subject to the following conditions and requirements:

- (1) The department, when required by the governor but not later than November 15 preceding each regular session of the legislature, shall submit to the state director of finance its budget estimates of expenditures for the next fiscal period in the manner required by general law;
- (2) The department’s budget as approved by the governor shall be included in the governor’s budget report and shall be transmitted to the legislature for its approval;
- (3) Upon legislative approval of a budget, the amount appropriated shall be made available to the department. If no budget is approved by the legislature prior to its adjournment, sums accruing to this account shall not be expended for any other purpose but shall remain available for future use. Any amount in this account which is in excess of the amount approved by the legislature or made available for the fiscal period may be transferred to the Hawaiian home operating fund.

Notwithstanding any provision to the contrary, for the period of July 1, 1994, to July 1, 1995, moneys in the account may be used for homes in Panaewa residential lots, units 3 and 4:

- (1) To repair, remove, replace, or restore the homes; or
- (2) In direct settlement with the homeowners.”

SECTION 3. There is appropriated out of the Hawaiian home administration account of the State of Hawaii, a sum up to \$3,000,000, or so much thereof as may be necessary for fiscal year 1994-1995, to repair, remove, replace, or restore the homes in the Panaewa residential lots, units 3 and 4, in Hilo, Hawaii; provided that:

- (1) These funds may be used in direct settlement with the homeowners;
- (2) Any funds recovered from the general contractor and other parties up to \$3,000,000 shall be deposited into the Hawaiian home administration account; provided that funds recovered in excess of \$3,000,000 shall be deposited into the general fund; and
- (3) Funds shall be made available under this Act when a homeowner

and the department of Hawaiian home lands have negotiated and settled their differences regarding these homes.

SECTION 4. The sum appropriated shall be expended by the department of Hawaiian home lands for the purposes of this Act.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 1994; provided that on July 1, 1995, section 2 of this Act shall be repealed, and section 213, Hawaiian Homes Commission Act, 1920, is reenacted in the form in which it read on the day before the approval of this Act.

(Approved June 9, 1994.)

## ACT 153

H.B. NO. 3461

A Bill for an Act Relating to the Transfer of Correctional Mental Health Employees from the Department of Health to Department of Public Safety.

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

SECTION 1. The legislature finds that the responsibility for mental health services to inmates should be placed solely on the department of public safety.

The purpose of this Act is to transfer the functions and authority exercised by the department of health relating to the provision of mental health services to inmates, to the department of public safety.

SECTION 2. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§353- Mental health care.** The department shall be responsible for providing mental health services in community correctional centers.”

SECTION 3. Section 334-74, Hawaii Revised Statutes, is amended to read as follows:

“**§334-74 Transfer of residents of correctional facilities.** If any resident of a state correctional facility is in need of hospital treatment for a primary diagnosis of mental illness, the director of public safety or the officer in charge of the correctional facility may file with the director of health an application for the transfer of the resident to the state hospital, together with the certificate of a psychiatrist or psychologist employed by either the department of health, or the department of public safety showing the need for [such] hospital treatment, and, upon approval of the application by the director of health, the official having custody of the resident shall transfer the resident to the state hospital for care and treatment. The official effecting the transfer of the resident shall keep the administrator of the state hospital informed of the maximum period of commitment of the resident to the director of public safety, and, if the continued hospitalization of the resident beyond the expiration of the period is deemed necessary, the administrator of the state hospital shall institute the admission procedures required to detain the resident as a patient notwithstanding the resident’s release

from the state correctional facility; provided that a judicial hearing pursuant to sections 334-60.2 to 334-60.7 be held by the same circuit court that sentenced [such] the resident. In the event that discharge from the hospital occurs before the expiration of the maximum period of commitment or confinement, the resident shall be returned to the appropriate state correctional facility. As used in this section, "resident" means any person serving a sentence in a state correctional facility or any child or minor detained in a state correctional facility."

SECTION 4. The functions and authority heretofore exercised by the director of health related to the provision of mental health services in state correctional facilities, shall be transferred to the department of public safety.

SECTION 5. All officers and employees whose functions are transferred by this Act shall be transferred to the department of public safety.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform these regular duties upon their transfer, subject to State personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessary examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employees possesses the minimum qualifications for the position to which transferred or appointed.

If an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of health shall be transferred with the functions to which they relate to the department of public safety.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect on July 1, 1994.

(Approved June 9, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 154

H.B. NO. 3463

A Bill for an Act Relating to the Transfer of Public Safety Functions and Employees From the Department of Defense to the Department of Public Safety.

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

SECTION 1. The purpose of Act 211, Session Laws of Hawaii 1989, was to consolidate all public safety functions and employees of state government into a department of public safety. It was to ensure better organization and coordination of public safety functions, allow for standardized training, and establish a "career ladder" for public safety employees. Act 211 also required the director of public safety to report to the legislature the director's recommendations regarding the transfer of other public safety functions and employees from other departments to the department of public safety. A study was conducted in 1990 to identify public safety functions and employees who provide for the safety of people from crimes against persons and property who are assigned to other state departments or agencies. Most of those functions and employees have since been transferred to the department of public safety.

The purpose of this Act is to transfer to the department of public safety those public safety functions and employees who were identified in the study, and were not transferred, also other public safety functions and employees who were later identified, and approved and recommended by the Governor.

SECTION 2. Section 26-14.6, Hawaii Revised Statutes, is amended to read as follows:

**"§26-14.6 Department of public safety.** (a) The department of public safety shall be headed by a single executive to be known as the director of public safety.

(b) The department of public safety shall be responsible for the formulation and implementation of state policies and objectives for correctional, security, law enforcement, and public safety programs and functions, for the administration and maintenance of all correctional facilities and services, for the service of process, and for the security of state buildings.

(c) Effective July 1, 1990, the Hawaii paroling authority and the criminal injuries compensation commission are placed within the department of public safety for administrative purposes only.

(d) Effective July 1, 1990, the functions and authority heretofore exercised by:

- (1) The department of corrections relating to adult corrections and the intake service centers;
- (2) The judiciary relating to the sheriff's office and judiciary security personnel; and
- (3) The department of the attorney general relating to state law enforcement officers and narcotics enforcement investigators with the narcotics enforcement division, shall be transferred to the department of public safety.

(e) Effective July 1, 1990, the functions and authority heretofore exercised by the department of health pursuant to chapters 329 and 329C, with the exception of sections 329-2, 329-3, and 329-4(3) to (8), shall be transferred to the department of public safety.



(f) Effective July 1, 1990, the functions, authority, and obligations, together with the limitations imposed thereon and the privileges and immunities conferred thereby, exercised by a "sheriff", "sheriffs", a "sheriff's deputy", "sheriff's deputies", a "deputy sheriff", "deputy sheriffs", or a "deputy", under sections 21-8, 47-18, 88-51, 105-4, 134-11, 134-51, 183D-11, 187A-14, 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9, 325-80, 353-11, 360-5, 360-14, 383-71, 438-5, 445-37, 482E-4, 485-6, 501-42, 501-171, 501-218, 521-78, 578-4, 584-6, 587-33, 603-29, 604-6.2, 606-14, 607-2, 607-4, 607-8, 633-8, 634-11, 634-12, 634-21, 634-22, 651-33, 651-37, 651-51, 654-2, 655-2, 657-13, 660-16, 666-11, 666-21, 803-23, 803-34, 803-35, 804-14, 804-18, 804-41, 805-1, 806-71, and 832-23 shall be exercised to the same extent by the department of public safety.

(g) Effective July 1, 1991, the functions and authority heretofore exercised by the director of transportation and the department of transportation related to law enforcement, including those pertaining to parking at its facilities and security, shall be transferred to the department of public safety.

(h) Effective January 1, 1993, the functions and authority heretofore exercised by the attorney general and the department of the attorney general relating to the<sup>1</sup> executive security officers shall be transferred to the department of public safety.

(i) Effective January 1, 1993, the functions and authority heretofore exercised by the superintendent of education and the department of education relating to after hours security contracts at its facilities, including the security functions being performed by employees of the public library system as well as the contractual security services for the libraries, shall be transferred to the department of public safety.

(j) Effective January 1, 1993, the functions and authority heretofore exercised by the director of health and the department of health relating to uniformed security employees and security contracts at various state hospitals throughout the State shall be transferred to the department of public safety.

(k) Effective January 1, 1993, the functions and authority heretofore exercised by the director of human services and the department of human services relating to contractual security guard services shall be transferred to the department of public safety.

(l) Effective July 1, 1994, the functions and authority heretofore exercised by the adjutant general relating to security for national guard and state civil defense facilities in the Diamond Head complex, for after work hours, shall be transferred to the department of public safety."

SECTION 3. The director of public safety and the adjutant general shall develop appropriate transition plans and attend to other administrative details to ensure that the transfer of functions and employees required by this Act shall be implemented on the dates specified and coordinated with the department of public safety and its appointed liaison.

SECTION 4. All officers and employees of the department of defense whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon transfer, subject to state personnel laws and this Act. Support services personnel including part-time employees shall also be transferred.

No officer or employee of the State having tenure who is transferred by this Act shall suffer any loss of salary, seniority, prior service credit, vacation,

sick leave, or other employee benefit or privilege as a consequence of this Act and may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws. In the event that an office or position held by an officer or employee having tenure is abolished and the officer, employee, or position is not transferred to the department of public safety by this Act, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position of the State for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

Any employee who prior to this Act was exempt from civil service and may be transferred as a consequence of this Act shall retain exempt status and shall not be appointed to a civil service position because of this Act. Employees who may be transferred by this Act and who are receiving entitlements, benefits, or privileges in accordance with chapter 77, but not chapter 76, Hawaii Revised Statutes, shall continue to receive only those entitlements, benefits, or privileges received under chapter 77 after transfer.

SECTION 5. All appropriations, records, equipment, files, supplies, contracts, books, papers, documents, maps, computer software and data, authorizations, and other property, both real and personal, heretofore made, used, acquired, or held by the department of defense in the exercise of the functions and programs transferred by this Act shall be transferred to the department of public safety along with the functions or programs.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000, or so much thereof as may be necessary for fiscal year 1994-1995, to carry out the purpose of this Act.

SECTION 7. The sum appropriated shall be expended by the department of public safety for the purpose of this Act.

SECTION 8. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 1994.

(Approved June 9, 1994.)

**Note**

1. "The" should be underscored.

**ACT 155**

H.B. NO. 3465

A Bill for an Act Relating to the Corrections Population.

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

SECTION 1. The legislature finds that there is a need to increase the number of corrections population management commissioners from eight to nine. An

## ACT 156

adult probation administrator of the judiciary shall be the ninth commissioner. The purpose of this Act is to address the severely overcrowded correctional facilities in the State. This is a matter of compelling state interest to promote and protect public safety.

SECTION 2. Section 353F-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The corrections population management commission shall consist of [eight] nine members. The state attorney general, the director of public safety, the prosecuting attorney of the city and county of Honolulu, the state public defender, and the chairperson of the Hawaii paroling authority, or their designated representatives, shall be members of the commission. Additionally, the chief justice of the Hawaii supreme court shall appoint [a] one judge and one adult probation administrator of the judiciary as [a member] members of the commission. Finally, one member each shall be appointed by the president of the senate and the speaker of the house of representatives.”

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

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

(Approved June 9, 1994.)

## ACT 156

H.B. NO. 3466

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

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

SECTION 1. The legislature finds that the workload of the chairperson of the Hawaii paroling authority is comparable to that of the public utilities chairperson. The legislature further finds that equal compensation is appropriate and will be established upon approval of this Act.

SECTION 2. Section 353-63, Hawaii Revised Statutes, is amended to read as follows:

“**§353-63 Service of Hawaii paroling authority members; compensation; expenses.** The chairperson of the Hawaii paroling authority shall serve on a full-time basis. The other two members shall serve on a part-time basis. [Effective January 1, 1989, and January 1, 1990, the annual salary of the chairperson shall be \$62,854 and \$65,683, respectively.] Effective July 1, 1994, the chairperson of the Hawaii paroling authority shall be paid a salary set by the governor within the range of \$72,886 to \$77,966, a year. The compensation of each of the part-time members shall be eighty per cent of the hourly wage paid the chairperson. [Effective January 1, 1989, for] For each hour engaged in the official duties of the authority, each part-time member of the authority shall be paid an hourly wage at the percentage rate specified in this section based on the hourly wage

paid the chairperson; provided that [such] compensation shall not exceed eighty per cent of the total regular working hours in a month; and provided further that [such] part-time members shall not be entitled to any vacation, sick leave, or other benefits except as provided in this section. All paroling authority members shall receive their necessary expenses for travel and incidentals which shall be paid from appropriations provided the authority for such purposes, on vouchers approved by the director of public safety.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$24,745 or so much thereof as may be necessary for fiscal year 1994-1995, to increase the salary of the chairperson and the hourly compensation of the two part-time members of the Hawaii paroling authority.

SECTION 4. The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

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

SECTION 6. This Act shall take effect on July 1, 1994.

(Approved June 9, 1994.)

## ACT 157

H.B. NO. 3473

A Bill for an Act Making an Appropriation for Compensation of Criminal Injuries.

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

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$993,249.41, or so much thereof as may be necessary, for fiscal year 1994-1995, for the purpose of compensating certain persons or their providers of services pursuant to chapter 351, Hawaii Revised Statutes.

SECTION 2. The sum appropriated shall be deposited in the criminal injuries compensation fund to be used for payments as authorized by the criminal injuries compensation commission. The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1994.

(Approved June 9, 1994.)

## ACT 158

H.B. NO. 3676

A Bill for an Act Relating to Special Purpose Revenue Bonds.

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

SECTION 1. The legislature finds and declares that the issuance of special

## ACT 158

purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to part II, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed the sum of \$200,000,000, in one or more series, for the purpose of assisting The Queen's Health Systems and its not-for-profit subsidiaries. The legislature finds and determines that the activities and facilities of The Queen's Health Systems and its not-for-profit subsidiaries constitute a project as defined in part II, chapter 39A, Hawaii Revised Statutes, and that the financing thereof is assistance to a health care facility.

SECTION 3. The department of budget and finance shall not issue special purpose revenue bonds authorized in section 2 until such time as the organization has obtained a certificate of need approval from the state health planning and development agency, if necessary, and is otherwise in compliance with laws, rules, and ordinances of the State or any political subdivision thereof, or any departments or boards thereof with respect to the construction, operation, and maintenance of projects, including:

- (1) Health care planning laws and rules;
- (2) Zoning laws and rules;
- (3) Building permit requirements;
- (4) Building and health codes; and
- (5) Other laws, rules, and ordinances of similar nature pertaining to the project.

SECTION 4. The department of budget and finance is further authorized to terminate the authorization of all unexpended amounts for projects authorized by Act 303, Session Laws of Hawaii 1991, as such Act relates to The Queen's Health Systems and the not-for-profit subsidiary project parties therein referenced, and such termination is with the consent of such project parties.

SECTION 5. The department of budget and finance is further authorized to issue from time to time refunding special purpose revenue bonds in such principal amounts as the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2. In making such determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 6. The special purpose revenue bonds and refunding special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part II, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

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

(Approved June 9, 1994.)

## ACT 159

S.B. NO. 2272

A Bill for an Act Making an Appropriation for the Waikolu Well Development Project.

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

SECTION 1. There is appropriated out of the irrigation system revolving fund of the State of Hawaii the sum of \$200,000, or so much thereof as may be necessary for fiscal year 1994-1995, for the implementation of a biological and hydrologic monitoring program for the Molokai irrigation system. The program shall:

- (1) Last for a minimum of one year;
- (2) Document the existing operating procedures of the Molokai irrigation system;
- (3) Identify the impacts of all operating alternatives on Waikolu stream;
- (4) Evaluate the effectiveness of diversion weir modifications; and
- (5) Test the effects that the pumping of three new wells have on the stream ecosystem.

The specified sum shall be in addition to the operating appropriation made for agricultural resource management (AGR 141) by Act 289, Session Laws of Hawaii 1993.

SECTION 2. The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1994.

(Approved June 9, 1994.)

## ACT 160

S.B. NO. 2753

A Bill for an Act Relating to Insurance.

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

SECTION 1. Section 431:7-202, Hawaii Revised Statutes, is amended to read as follows:

**“§431:7-202 Taxation.** (a) Each authorized insurer, except with respect to all life insurance contracts [and], ocean marine insurance contracts, and real property title insurance contracts, shall pay to the director of finance through the commissioner a tax of 4.7 per cent for the period July 1, 1992, to June 30, 1993, and 4.265 per cent on July 1, 1993, and thereafter on the gross premiums received from all risks or property resident, situated, or located within this State, during the year ending on the preceding December 31, less return premiums (but not including dividends paid or credited to policyholders), and less any reinsurance accepted (the tax upon such business being payable by the direct writing insurer).

All premiums written, procured, or received in the State shall be presumed to have been from risks or property resident, situated, or located within the State. This presumption may be rebutted as to any premium:

- (1) By showing that it has been properly allocated or apportioned and reported as a taxable premium of another state or other appropriate taxing authority; or
- (2) By facts as to the residence, situation, or location of the risks or property, conclusively showing the nontaxability of the premium.

(b) Each authorized insurer, with respect to life insurance contracts, shall pay to the director of finance through the commissioner a tax of 2.75 per cent on the gross premiums received from all risks resident within this State, during the year ending on the preceding December 31, less return premiums, dividends paid or credited to policyholders, and reinsurance accepted (the tax upon such business being payable by the direct writing insurer).

The tax also shall apply to premiums for insurance written on individuals residing outside the State unless the direct writing insurer shall show the payment of a comparable tax to another appropriate taxing authority. Such showing may be required as to any premium written, procured, or received in the State.

(c) Each authorized insurer shall, with respect to all ocean marine insurance contracts written within the State, during the year ending on the preceding December 31, pay to the director of finance through the commissioner a tax of .8775 per cent on its gross underwriting profit. The gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance ceded) on such ocean marine insurance contracts, the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such year under such contracts. In the case of an insurer issuing participating contracts, the gross underwriting profit shall not include, for computation of the tax prescribed by this subsection, the amount refunded, or paid as participation dividends, by such insurer to the holders of such contracts.

(d) Each authorized insurer, with respect to real property title insurance contracts written on real property situated within this State during the year ending on the preceding December 31, shall pay to the director of finance through the commissioner a tax of 4.265 per cent of the amount of the risk premium actually received by the authorized insurer for the provision of such insurance. The amount of the risk premium received by the authorized insurer for the provision of real property title insurance shall be an amount equal to the amount actually received by the authorized insurer solely for the provision of real property title insurance coverage in accordance with the underwriting agreement or contract between the authorized insurer and the underwritten title company.

[(d)] (e) No return premium shall be deductible unless the original gross premium, or an adjustment thereof, in an amount equal to or in excess of the return premium, has been concurrently or previously reported as taxable under this section or a prior similar law of the State.

[(e)] (f) The tax shall be due and payable on March 15 succeeding the filing of the statement provided for in section 431:7-201. Any insurer failing or refusing to render the statement and to pay the required taxes above stated shall be liable to a penalty of \$25 for each day of delinquency; the taxes may be collected by distraint, and the penalty recovered by an action to be instituted by the commissioner in the name of this State, in any court of competent jurisdiction. The commissioner may suspend the certificate of authority of the delinquent insurer until the taxes and fine, should any be imposed, are fully paid.

[(f)] (g) Taxes imposed by subsections (a), (b) [and], (c), and (d) shall be paid as follows:

- (1) Insurers whose annual tax liability for the preceding year was more than \$5,000 shall pay their taxes on a monthly basis. The taxes shall

- be due and payable on or before the last day of the calendar month following the month in which they accrue;
- (2) Insurers whose annual tax liability for the preceding year was more than \$1,000 and up to \$5,000 shall pay their taxes on a quarterly basis. The taxes shall be due and payable on or before the last day of the calendar month following the quarter in which they accrue; and
  - (3) Insurers whose annual tax liability for the preceding year was \$1,000 or less shall pay their taxes as provided for in subsection [(e)] (f).

In establishing the prepayment amount of an insurer who has acquired the business of another insurer, the amount of tax liability of the acquiring insurer for the preceding calendar year shall be deemed to include the amount of tax liability of the acquired insurer for that year.

All amounts paid under this subsection, other than penalties, shall be allowed as a credit on the annual tax imposed by subsections (a), (b) [and] (c), and (d).

If the total amount of installment payments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of annual tax and be allowed as a refund under section 431:7-203. Any insurer failing to pay taxes when due and payable, shall be liable to a penalty of \$25 for each day of delinquency; the taxes may be collected by distraint, and the penalty recovered by an action to be instituted by the commissioner in the name of the State, in any court of competent jurisdiction. The commissioner may suspend the certificate of authority of the delinquent insurer until the taxes and fine, should any be imposed, are fully paid.”

SECTION 2. Section 431:7-207, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The tax credit allowed by subsection (a) may be claimed on the interim returns required by section [431:7-202(f)] 431:7-202(g).”

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

SECTION 4. This Act shall take effect on July 1, 1994.

(Approved June 9, 1994.)

## ACT 161

S.B. NO. 3012

A Bill for an Act Relating to Kaho‘olawe.

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

SECTION 1. The purpose of this Act is to:

- (1) Create a trust fund for the receipt of federal funds designated by Congress for the rehabilitation of Kaho‘olawe;
- (2) Appropriate funds for the operation of the Kaho‘olawe island reserve commission; and



- (3) Appropriate funds to complete negotiations on a memorandum of understanding with the United States Navy.

SECTION 2. Chapter 6K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§6K- Rehabilitation trust fund. (a) There is created in the state treasury a trust fund to be designated as the rehabilitation trust fund to be administered by the department with the prior approval of the commission. Subject to P.L. 103-139, and this chapter, all moneys received from the federal government for the rehabilitation and environmental restoration of the island of Kaho‘olawe, any moneys appropriated by the legislature to the trust fund, and the interest or return on investments earned from moneys in the trust fund, shall be deposited in the trust fund and shall be used to fulfill the purposes of this chapter.

(b) The commission may use moneys in the trust fund to carry out the purposes of this chapter, including hiring employees, specialists, and consultants necessary to complete projects related to the purposes of this chapter.

(c) Moneys deposited into or appropriated to the trust fund shall remain available until they are obligated or until the trust fund is repealed.

(d) The trust fund shall be repealed on July 1, 2005. The commission shall transfer to the credit of the state general fund, all unexpended or unencumbered balances remaining in the trust fund prior to June 30, 2005; provided that all unexpended or unencumbered balances of federal moneys shall be disbursed in accordance with applicable federal law.”

SECTION 3. Section 6K-4, Hawaii Revised Statutes, is amended to read as follows:

“[[§6K-4]] Powers and duties. The department and other departments and agencies of the State shall be subject to the oversight of the commission with regard to the control and management of the island reserve. Subject to section 6K-6, the department shall:

- (1) Adopt rules pursuant to chapter 91 after the commission has approved the rules;
- (2) (1) Implement controls and permitted uses for the island reserve;
- [(3)] (2) Enforce this chapter;
- [(4)] (3) Provide administrative support to the commission; and
- [(5)] (4) Authorize [such] those of its employees as it deems reasonable and necessary to serve and execute warrants and arrest offenders or issue citations in all matters relating to enforcement of the laws and rules applicable to the island reserve.”

SECTION 4. Section 6K-5, Hawaii Revised Statutes, is amended to read as follows:

“[[§6K-5]] Commission. (a) There is established the Kaho‘olawe island reserve commission to be placed within the department of land and natural resources for administrative purposes as provided in section 26-35. The commission shall consist of seven members to be appointed in the manner and to serve for the terms provided in section 26-34; provided that:

- (1) One member shall be a member of the Protect Kaho‘olawe Ohana;
- (2) Two members shall be appointed by the governor from a list provided by the Protect Kaho‘olawe Ohana;

- (3) One member shall be a trustee or representative of the office of Hawaiian affairs;
- (4) One member shall be a county official appointed by the governor from a list provided by the mayor of the county of Maui;
- (5) One member shall be the chairperson of the board of land and natural resources; and
- (6) One member shall be appointed by the governor from a list provided by native Hawaiian organizations.

(b) The governor shall appoint the chairperson from among the members of the commission.

(c) The members of the commission shall serve without pay but shall be reimbursed for their actual and necessary expenses, including travel expenses, incurred in carrying out their duties.

(d) Any action taken by the commission shall be approved by a simple majority of its members. Four members shall constitute a quorum to do business.

(e) The commission, without regard to the requirements of chapters 76 and 77, may hire employees necessary to perform its duties[, including administrative personnel, as provided in section 26-35.

(f) The commission shall adopt rules in accordance with chapter 91 to guide its conduct and shall maintain a record of its proceedings and actions].”

SECTION 5. Section 6K-6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§6K-6**~~]]~~ **Responsibilities and duties of the commission.** The commission shall:

- (1) Establish criteria, policies, and controls for permissible uses within the island reserve;
- (2) Approve all contracts for services and rules pertaining to the island reserve;
- (3) Provide advice to the governor, the department, and other departments and agencies on any matter relating to the island reserve;
- (4) Provide advice to the office of state planning and the department of the attorney general on any matter relating to the federal conveyance of Kaho‘olawe;
- (5) Enter into curator or stewardship agreements with appropriate Hawaiian cultural and spiritual community organizations for the perpetuation of native Hawaiian cultural, religious, and subsistence customs, beliefs, and practices for the purposes stated in section 6K-3;
- (6) Carry out those powers and duties otherwise conferred upon the board of land and natural resources and the land use commission with regard to [land] dispositions and [land use] approvals pertaining to the island reserve. All powers and duties of the board of land and natural resources and the land use commission concerning [land] dispositions and [land use] approvals pertaining to the island reserve are transferred to the commission; [and]
- (7) Carry out those powers and duties concerning the island reserve otherwise conferred upon the county of Maui by chapter 205A. The powers and duties of the county of Maui and its agencies concerning coastal zone disposition and approvals pertaining to the island reserve are transferred to the commission[.]; and

## ACT 162

- (8) Adopt rules in accordance with chapter 91 that are necessary for the purposes of this chapter and shall maintain a record of its proceedings and actions.”

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1, or so much thereof as may be necessary for fiscal year 1994-1995, for the operational expenses of the Kaho'olawe island reserve commission and its staff; provided that if moneys received from the federal government for the rehabilitation and environmental restoration of the island of Kaho'olawe can be used for these purposes, the moneys appropriated by this Act shall lapse into the state general fund. The sum appropriated shall be expended by the department of land and natural resources upon the prior approval of the commission.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1, or so much thereof as may be necessary for fiscal year 1994-1995, to complete conveyance and cleanup negotiations with federal agencies. The sum appropriated shall be expended by the office of state planning.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 9. This Act shall take effect upon its approval; provided that sections 6 and 7 shall take effect on July 1, 1994.

(Approved June 9, 1994.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 162

S.B. NO. 3161

A Bill for an Act Relating to Public Lands.

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

### PART I.

SECTION 1. Chapter 171, Hawaii Revised Statutes, is amended by adding two new sections to part VII to be appropriately designated and to read as follows:

“§171- **Rate policy.** The board may:

- (1) Charge fees to eligible lessees of public lands within industrial parks in an amount sufficient to cover the costs of operation, maintenance, and debt service on revenue bonds and reasonable reserves, in compliance with part III of chapter 39; and
- (2) Charge eligible lessees as may be necessary to cover capital costs or other costs incurred in connection with the industrial parks.

§171- **Issuance of revenue bonds.** (a) The board may issue revenue bonds in the name of the department in such amounts as may be authorized by the legislature. Except as provided in this chapter, all revenue bonds shall be issued

pursuant to part III of chapter 39 to finance, in whole or in part, the costs of construction, acquisition, or maintenance of any industrial park and to pledge or assign for the punctual payment of the revenue bonds, and interest thereon, any and all revenues derived from any industrial park or parks undertaken by the board, in an amount sufficient to pay the principal and interest of the revenue bonds as they become due, and to create and maintain reasonable reserves or sinking funds therefor. Funds of the board, not otherwise required, may be advanced to pay necessary expenses incurred in preparation for the issuance of the revenue bonds. The board may take any other appropriate action in connection with the issuance of revenue bonds.

(b) All revenue bonds issued pursuant to this chapter shall be issued in the name of the department and not in the name of the State.

(c) The board, with the approval of the governor, may designate by resolution one or more industrial parks undertaken pursuant to this chapter as an "undertaking" as defined in section 39-51 and for purposes of part III of chapter 39."

SECTION 2. Section 171-6, Hawaii Revised Statutes, is amended to read as follows:

**"§171-6 Powers.** Except as otherwise provided by law, the board of land and natural resources shall have the powers and functions granted to the heads of departments and the board of land and natural resources under chapter 26.

In addition to the foregoing, the board may:

- (1) Adopt a seal;
- (2) Administer oaths;
- (3) Prescribe forms of instruments and documents;
- (4) Adopt rules which, upon compliance with chapter 91, shall have the force and effect of law;
- (5) Set, charge, demand, and collect reasonable fees for the preparation of documents to be issued, for the surveying of public lands, and for the issuing of certified copies of its government records, which fees, when collected, shall be deposited into the state general fund, unless otherwise specified in this chapter;
- (6) Establish additional restrictions, requirements, or conditions, not inconsistent with those prescribed in this chapter, relating to the use of particular land being disposed of, the terms of sale, lease, license, or permit, and the qualifications of any person to draw, bid, or negotiate for public land;
- (7) Reduce or waive the lease rental at the beginning of the lease on any lease of public land to be used for any agricultural or pastoral use, or for resort, commercial, industrial, or other business use where the land being leased requires substantial improvements to be placed thereon; provided that such reduction or waiver shall not exceed two years for land to be used for any agricultural or pastoral use, or exceed one year for land to be used for resort, commercial, industrial, or other business use;
- (8) Delegate to the chairperson or employees of the department of land and natural resources, subject to the board's control and responsibility, such powers and duties as may be lawful or proper for the performance of the functions vested in the board;
- (9) Utilize arbitration under chapter 658 to settle any controversy arising out of any existing or future lease;

- (10) Set, charge, and collect reasonable fees in an amount sufficient to defray the cost of performing or otherwise providing for the inspection of activities permitted upon the issuance of a land license involving a commercial purpose;
- (11) Appoint masters or hearing officers to conduct public hearings as provided by law and under such conditions as the board by rules shall establish;
- (12) Bring such actions as may be necessary to remove or remedy encroachments upon public lands. Any person causing an encroachment upon public land shall be subject to a fine of not more than \$500 a day for the first offense and shall be liable for administrative costs incurred by the department and for payment of damages. Upon the second offense and thereafter, the violator shall (A) be fined not less than \$500 nor more than \$2,000 per day; (B) if required by the board, restore the land to its original condition if altered and assume the costs thereof; and (C) assume such costs as may result from adverse effects from such restoration;
- (13) Set, charge, and collect interest and a service charge on delinquent payments due on leases, sales, or other accounts. The rate of interest shall not exceed one per cent a month and the service charge shall not exceed \$50 a month for each delinquent payment; provided that the contract shall state the interest rate and the service charge and be signed by the party to be charged;
- (14) Set, charge, and collect additional rentals for the unauthorized use of public lands by a lessee, licensee, grantee, or permittee who is in violation of any term or condition of a lease, license, easement, or revocable permit, retroactive to the date of the occurrence of the violation. Such amounts shall be considered delinquent payments and shall be subject to interest and service charges as provided in paragraph (13); [and]
- (15) Set, charge, and collect reasonable fines for violation of this chapter or any rule adopted thereunder. Any person violating any of the provisions of this chapter or any rule adopted thereunder, for which violation a penalty is not otherwise provided, shall be fined not more than \$500 a day and shall be liable for administrative costs incurred by the department and for payment for damages[.];
- (16) Issue revenue bonds, subject to the approval of the legislature. All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this chapter. All revenue bonds shall be issued in the name of the department and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding thirty years from the date of issuance;
- (17) Pledge or assign all or any part of the receipts and revenues of the department. The revenue bonds shall be payable from and secured solely by the revenue derived by the department from the industrial park or parks for which the bonds are issued;
- (18) Reimburse the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of this chapter; and
- (19) Do any and all things necessary to carry out its purposes and exercise the powers granted in this chapter.”

SECTION 3. Section 171-138, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the treasury of the State the industrial park special fund. The proceeds of the special fund shall be used for the following purposes:

- (1) Planning, design, improvement, construction, land acquisition, and equipment necessary for the development or maintenance of industrial parks;
- (2) Constructing, operating, maintaining, and improving infrastructure and other public or common facilities within industrial parks; [and]
- (3) Payment of debt service on revenue bonds issued by the department for industrial park purposes, and the establishment of debt service and other reserves deemed necessary by the board;
- (4) Reimbursement of the general fund for debt service on general obligation bonds issued to finance industrial park projects, where the bonds are designated to be reimbursable out of the industrial park special fund; and
- [(3)] (5) Any other purpose deemed necessary by the board for the purpose of planning, improving, developing, operating, and maintaining industrial parks.”

SECTION 4. The department of land and natural resources, with the approval of the director of finance and the governor, is authorized to issue revenue bonds in an aggregate principal amount not to exceed \$20,000,000, at such times and in such amounts as it deems advisable for the purpose of financing and refinancing any industrial park developed or acquired by the department of land and natural resources under chapter 171, Hawaii Revised Statutes. These industrial park revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, except as provided for in chapter 171, Hawaii Revised Statutes.

## PART II.

SECTION 5. Act 237, Session Laws of Hawaii 1988, as amended by Act 249, Session Laws of Hawaii 1990; as amended by Act 69, Session Laws of Hawaii 1991, and as amended by Act 177, Session Laws of Hawaii 1993, is amended by:

1. Amending section 4 to read as follows:  
“SECTION 4. In negotiating and executing a lease as authorized by section 2, the board of land and natural resources shall:
  - (1) Require appraisal of the parcel in accordance with section 171-17(b);
  - (2) Impose such other lease provisions, restrictions, and conditions provided by sections 171-35, 171-36, and 171-37 as may be required to protect the State’s interests;
  - (3) Recover from the lessee the cost of subdividing the parcel; and
  - (4) Require the payment of annual lease rent based on fair market value and a premium, computed at twenty-five per cent of annual lease rent, with the premium to be added to the annual lease rent for each year of the lease equal to the number of years that the lessee had

occupied the land under revocable permit[, as illustrated by the following example: if a lessee had occupied the land under revocable permit for ten continuous years, the twenty-five per cent premium shall be part of the annual lease rent for the first ten years of the lease.] not to exceed four years."

2. Adding a new section to read as follows:

"SECTION 7A. The department of land and natural resources shall establish policies to expedite the completion of lease negotiations under this Act, by the sunset date of this Act."

3. Amending section 7 to read as follows:

"SECTION 7. This Act shall take effect on July 1, 1988, and shall be repealed on July 1, [1994.] 1995."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon approval; provided that sections 1, 2, 3, and 4 shall take effect on July 1, 1994.

(Approved June 9, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 163**

S.B. NO. 3292

A Bill for an Act Relating to Airport Taxi Service.

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

SECTION 1. The legislature finds that Hawaii's airport system plays a critical role in the State's visitor-based economy by facilitating the movement of passengers to and from the State and between islands. As the main point of entry to Hawaii, the State's airports are the first places to which visitors are exposed, and present the first opportunity to convey a strong impression of Hawaii's assets to visitors.

An important aspect of any efficient airport operation is a well-managed, reasonably-priced ground transportation system that includes a sound plan for taxicab services. If visitors have favorable impressions of airport-based taxis, they will return to visit again, thereby helping to keep transportation costs down in the long run. Taxis and taxicab drivers are among the first people in Hawaii to which first-time visitors are exposed. Because of this, it is essential that drivers provide top-quality service by using clean, new vehicles; treating visitors courteously; and demonstrating the Aloha Spirit. The type of service received upon first arriving in Hawaii is crucial to a visitor's decision to return in the future.

The legislature further finds that a sound, comprehensive master plan would give taxi drivers the necessary incentives to enhance taxi service, thereby improving the Hawaiian experience for out-of-state visitors, and increasing the percentage of returning visitors.

The purpose of this Act is to appropriate funds to the department of transportation to develop a master plan that will help create an economical and efficient airport taxi system with resulting benefits for taxi customers, taxi operators, and Hawaii's visitor-based economy.

SECTION 2. There is appropriated out of the airport revenue fund of the State of Hawaii the sum of \$75,000, or so much thereof as may be necessary for fiscal year 1994-1995, for the development of a master plan for the economical and efficient management of airport taxicab service. This plan shall be developed by the department of transportation as follows:

- (1) The department of transportation shall conduct a thorough review of airport taxi service for its entire statewide system of airports and formulate a management plan that addresses the issues set forth in this Act;
- (2) Airport taxi permit fees, if any, shall be calculated based upon a rational analysis of the costs to operate and administer the airport taxi system and shall not exceed those costs;
- (3) The department shall consult with and involve members of the local taxi industry as well as technical experts in the field at various strategic points during the development of the plan; and
- (4) The department shall submit a report on a proposed master plan to the legislature no later than twenty days prior to the convening of the regular session of 1995.

SECTION 3. The sum appropriated shall be expended by the department of transportation. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1995 shall lapse into the airport revenue fund.

SECTION 4. This Act shall take effect upon approval.

(Approved June 9, 1994.)

## ACT 164

H.B. NO. 929

A Bill for an Act Relating to Limitation of Actions.

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

SECTION 1. Section 657-8, Hawaii Revised Statutes, is amended to read as follows:

**“§657-8 Limitation of action for damages based on construction to improve real property. (a)** No action to recover damages for any injury to property, real or personal, or for bodily injury or wrongful death, arising out of any deficiency or neglect in the planning, design, [suretyship, manufacturing and supplying of materials,] construction, supervision and administering of construction, and observation of construction relating to an improvement to real property shall be commenced more than two years after the cause of action has accrued, but in any event not more than ten years after the date of completion of the improvement.



## ACT 165

(b) This section shall not apply to actions for damages against [the owner or any other person] owners or other persons having an interest in the real property or improvement based on their negligent conduct in the repair or maintenance of the improvement or to actions for damages against surveyors for their own errors in boundary surveys. The term "improvement" as used in this section shall have the same meaning as in section 507-41 and the phrase "date of completion" as used in this section shall mean the time when there has been substantial completion of the improvement or the improvement has been abandoned. The filing of an affidavit of publication and notice of completion with the circuit court where the property is situated in compliance with section 507-43(f) shall be prima facie evidence of the date of completion. [Inclusion of sureties in this] This section shall not be construed to prevent, limit, or extend any shorter period of limitation applicable to sureties provided for in any contract or bond or any other statute, nor to extend or add to the liability of any surety beyond that for which the surety agreed to be liable by contract or bond.

(c) Nothing in this section shall exclude or limit the liability provisions as set forth in the products liability laws."

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

SECTION 3. This Act shall take effect on June 1, 1994.

(Approved June 21, 1994.)

## ACT 165

H.B. NO. 1332

A Bill for an Act Relating to Adult Residential Care Homes.

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

SECTION 1. The purpose of this Act is to establish a new category of adult residential care homes or community-based residences which are qualified to serve nursing facility level clients. The Act also authorizes the use of existing medicaid funds for the conduct of the Maluhia waitlist demonstration project, which shall:

- (1) Develop a program targeting hospital waitlisted patients to discharge them into an alternative placement setting, namely adult residential care homes or community-based residences, with supplementary home health care, case management, and community support services;
- (2) Develop a training program to prepare home operators to successfully accommodate the types of cases that will be targeted;
- (3) Demonstrate that the proposed program can provide services that will be appropriate and of sufficient quality to meet the required health and social needs of the patients at their respective levels of care; and
- (4) Demonstrate that the designed program can provide care that will be less costly than services paid by medicaid for hospitalized patients waitlisted for nursing home care.

SECTION 2. (a) The Maluhia waitlist project shall develop, demonstrate, and document the ability of the project to serve hospital waitlisted patients in adult residential care homes or community-based residences as a means of providing cost-effective long-term care in an alternative care setting. The project shall provide:

- (1) Case management and health monitoring services based on an interdisciplinary team approach;
  - (2) Services to patients aimed at maximizing their functional status to remain as independent as possible in the least restrictive environment and at maintaining their optimal health;
  - (3) Training and supervision of the care home operators to maximize their skill capacities;
  - (4) Targeting high-cost, high-risk hospital waitlisted medicaid patients;
  - (5) Clinically-based fiscal prudence by keeping the clinical staff continuously aware of the cost of the services rendered; and
  - (6) Developing a new alternative of care that is not presently available in the State.
- (b) A patient shall be eligible to participate who:
- (1) Is hospitalized and deemed waitlisted for nursing home care or is in a nursing home and is willing to be transferred to a less restrictive setting;
  - (2) Has been approved by the department of human services for nursing home placement at the intermediate care facility or skilled nursing facility level;
  - (3) Is deemed medically or categorically needy under the state medicaid plan;
  - (4) Is estimated to incur medicaid costs for home and community-based care equal to or less than that of the average hospital waitlisted patient;
  - (5) Can be cared for in a safe, noninstitutional environment;
  - (6) Together with the patient's family and primary physician, is willing to participate in the program and adopt its philosophy of care; and
  - (7) Has had the patient's plan of care authorized or approved by the primary physician and the state medicaid agency.
- (c) The project shall target the city and county of Honolulu initially and expand to the neighbor islands if fiscally possible by the third year of the project.
- (d) The department of health shall adopt rules in accordance with chapter 91, Hawaii Revised Statutes, to implement the project.
- (e) Personnel employed for this project shall not be subject to chapters 76 and 77, Hawaii Revised Statutes.
- (f) The department of human services shall support the project by:
- (1) Collaborating with the department of health in obtaining the necessary federal waivers to develop the demonstration project;
  - (2) Applying to the United States Health Care Financing Administration for the medicaid waiver; and
  - (3) Providing a system of reimbursement for demonstration services.
- (g) The director of health shall report to the legislature at least twenty days prior to the convening of each regular session during the conduct of the project. The annual report shall include a comprehensive report on the status of the project and recommendations for amendments to the rules of the department pertaining to the project.

## ACT 165

SECTION 3. Act 289, Session Laws of Hawaii 1993, is amended by adding two new sections to read as follows:

“SECTION 39A. The special fund appropriation of HTH 241 shall be increased by \$1,000,000 for the purpose of implementing the Maluhia waitlist project for fiscal year 1994-1995.

SECTION 55A. Provided that of the sum appropriated for HMS 601, up to \$1,000,000 may be expended, on a limited demonstration basis for fiscal year 1994-1995 for the Maluhia waitlist project; provided that the department of human services receives approval from the United States Health Care Financing Administration for a medicaid waiver to deinstitutionalize waitlisted medicaid patients into residential settings, appropriate licensing regulations are established for such settings by the State, and the department of health and the department of human services deem the program to be cost-effective. The \$1,000,000 representing \$500,000 in general funds and \$500,000 in federal funds, in HMS 230 may be transferred to HMS 601 for the purposes of this Act, provided that all federal and State waivers have been obtained.”

SECTION 4. The department of health shall adopt rules in accordance with chapter 91 to establish a new category of adult residential care home or community-based residence which is qualified to serve nursing facility level clients in the State. In order to qualify for this new category of adult residential care home or community-based residence, an individual shall:

- (1) Be determined by the department of human services to require care that meets the LOC III care, supervision, and assistance that are needed by dependent individuals at the LOC III level who require extensive services and supervisions to manage their physical, mental and social functions;
- (2) Be certified for nursing facility (NF) level of care; and
- (3) Be admitted to a medicaid waiver program.

The department of health shall adopt rules in accordance with chapter 91 to establish licensing regulations for this new category of adult residential care homes or community-based residences which is qualified to serve nursing facility level clients.

The department of health shall adopt rules in accordance with chapter 91 to define the standards of care that shall be required to be provided to residents qualifying for this new category of adult residential care home or community-based residents.

SECTION 5. Pursuant to rules adopted by the department of health establishing a category of adult residential care homes or community-based residences which is qualified to serve nursing facility level clients, the department of human services shall allow medicaid waiver funds to be used to pay for support services to nursing facility level clients residing in adult residential care homes or community-based residences who have been admitted to the medicaid waiver programs.

SECTION 6. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 1994, and shall be repealed on June 30, 1996.

(Approved June 21, 1994.)

## ACT 166

H.B. NO. 1590

A Bill for an Act Relating to Civil Service.

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

SECTION 1. Section 76-47, Hawaii Revised Statutes, is amended to read as follows:

**“§76-47 Appeals from suspensions, dismissals and demotions.** Any regular employee who is suspended, dismissed, or demoted may appeal to the civil service commission within twenty days after notice has been sent the employee of the suspension, dismissal, or demotion provided that the twenty-day period shall be extended to twenty days from the final notice on the employee’s grievance should the employee exercise the grievance channel. Upon the appeal, both the appealing employee and the appointing authority shall have the right to be heard publicly, present evidence and be represented by counsel, who shall have the right to examine and cross-examine witnesses. At the hearing technical rules of evidence shall not apply and the evidence shall be taken stenographically or recorded by machine. For the purpose of hearing the appeals fairly and expeditiously, the commission may at any time appoint a competent and qualified disinterested person to act as its hearing officer. The hearing officer shall hear the matter in the same manner as if it were before the commission and upon the conclusion of the hearing, shall report the hearing officer’s findings of fact and the hearing officer’s conclusions and recommendations based thereon to the commission and to the employee. The commission shall render the final decision in accordance with section 91-11.

If the commission finds that the action appealed from was taken by the appointing authority for any political, religious or racial reason; the employee shall be reinstated to the employee’s position without loss of pay for the period of the employee’s suspension or separation therefrom. In all other cases, if the commission finds that the reasons for the action are not substantiated in any material respect, the commission shall order that the employee be reinstated in the employee’s position, without loss of pay, but if the commission finds that the reasons are substantiated or are only partially substantiated, the commission shall sustain the action of the appointing authority, provided that the commission may modify the action of the appointing authority if it finds the circumstances of the case so require and may thereupon order such disposition of the case as it may deem just.

When an employee is dismissed and not reinstated after the appeal, the commission, in its discretion, may direct that the employee’s name be placed on an appropriate reemployment list for employment in any similar position other than one from which the employee has been removed.

The findings and decisions of the commission shall be final on all appeals, unless an appeal is taken as provided in chapter 91.

[When] Notwithstanding any other law to the contrary, when an appeal hearing is before a county civil service commission, including the civil service commission of the city and county of Honolulu, the attorney general shall be counsel for the commission and the county attorney or corporation counsel shall be counsel for the appointing authority. If, however, an appeal hearing is before the state commission, the attorney general shall be counsel for the appointing

ACT 167

authority and the county attorney or corporation counsel of the county, including the city and county of Honolulu, in which the appeal hearing is being conducted shall be counsel for the commission.

Notwithstanding any other law to the contrary, when the decision and order of the county civil service commission, including the civil service commission of the city and county of Honolulu, is appealed as provided in chapter 91, the attorney general shall be counsel for the commission and the county attorney or corporation counsel shall be counsel for the appointing authority. When the decision and order of the state civil service commission is appealed as provided in chapter 91, the attorney general shall be counsel for the appointing authority and the county attorney or corporation counsel of the county, including the city and county of Honolulu, in which the chapter 91 appeal is being conducted, shall be counsel for the state civil service commission."

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

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

(Approved June 21, 1994.)

ACT 167

H.B. NO. 1627

A Bill for an Act Relating to State Government Payments.

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

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to part XII, subpart B, to be appropriately designated and to read as follows:

“§11- Depletion of fund. (a) The Hawaii election campaign fund shall be under no obligation to provide moneys to qualified candidates in the event that moneys in that fund have been depleted.

(b) In the event that the Hawaii election campaign fund is close to depletion, as determined by the commission, the commission shall determine the amounts available to qualified candidates based on their order of eligibility in qualifying for public funds, as determined by the date of filing of an affidavit with the commission pursuant to section 11-208; provided that the affidavit has been accepted by the commission.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 21, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 168

H.B. NO. 1999

A Bill for an Act Relating to Building Codes.

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

SECTION 1. Section 46-19.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Energy efficiency building standards based on the design requirements for improvements of energy utilization in buildings developed and approved by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Incorporated (ASHRAE [90], meeting the requirements of Public Law 94-163] 90.1), shall be incorporated by each county into its building code by [July 1, 1978.] October 24, 1994. The [energy efficiency building] standards shall apply to all [new and renovated] buildings, including state buildings[.]; provided that the standards for renovated buildings shall only apply to the renovated system or elements of the building.

(b) The energy efficiency building standards shall not apply to exempted buildings. For the purposes of this section, “exempted building” means:

- (1) Any building whose peak design rate of energy usage is less than one watt per square foot of floor area for all purposes;
- (2) Any building with neither a heating nor cooling system;]
- [(3)] (1) Any building owned or leased in whole or in part by the United States; and
- [(4)] (2) Any building that is deliberately preserved beyond its normal term of use because of historic significance, architectural interest, or public policy or that qualifies for special historic building code provisions[; and
- (5) Dwelling units with air conditioning systems totaling less than 12,000 BTUH capacity].

For special applications such as hospitals, laboratories, thermally sensitive equipment, computer rooms, and manufacturing and industrial processes, the design concepts and parameters shall conform to the requirements of the application at minimum energy levels, provided that where these special applications are described in the ASHRAE handbook and product directory, applications volume, the criteria described therein shall be used.”

SECTION 2. Section 46-19.6, Hawaii Revised Statutes, is repealed.

SECTION 3. The statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

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

(Approved June 21, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Establishment of an Environmental Health Program Enhancement and Education Fund.

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

SECTION 1. The legislature finds that the programs of the environmental health services division of the department of health are essential for improving the quality of life and maintaining the public health through the monitoring, investigation, and enforcement of unsanitary conditions, food quality and contamination issues, prescription and nonprescription drug sales, community noise issues, radiological devices for medical and dental facilities, ionizing radiation sources, and vectors.

The legislature finds that these essential environmental health programs are hard-pressed to provide continuing educational opportunities for their staffs, which are necessary to maintain technical competency and enhance the ability to provide adequate public outreach, because of the lack of state general funds to support these vital training and educational activities. The legislature also finds that these programs receive limited federal funds from the United States Environmental Protection Agency and therefore are not recipients of federal training and program resources. The legislature further finds that these programs, by statute, have the ability to collect fees for permits, licenses, inspections, various certificates, variances, investigations, and reviews; and that these fees, if collected, could easily support vital training and educational activities.

The purpose of this Act is to allow environmental health programs to divert the fees they are authorized to collect into a special fund for staff training and public outreach purposes.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§321- Environmental health program enhancement and education fund.** (a) There is established within the department of health an environmental health program enhancement and education fund into which shall be deposited all moneys collected from fees for permits, licenses, inspections, various certificates, variances, investigations, and reviews, pursuant to sections 321-11.5, 321-15, 342F-14, 466J-4, and 466J-5.

(b) Moneys in the fund shall be expended by the department for the purpose of enhancing the capacity of environmental health programs to:

- (1) Improve public outreach efforts;
- (2) Educate the public and staff;
- (3) Plan for future growth and expansion to meet emerging needs; and
- (4) Provide training opportunities to ensure the maintenance of professional competence among environmental health staff and administrators.

Not more than \$90,000 of the fund may be utilized during any fiscal year for fund administration, including the hiring of not more than two full-time equivalent personnel, and the purchase of office and electronic equipment.

(c) Any amount in the fund in excess of \$300,000 on June 30 of each year shall be deposited into the general fund.

(d) The department of health shall submit a report to the legislature concerning the status of the environmental health program enhancement and

education fund, including, but not limited to, the amount of moneys taken in by and expended from the fund, and the sources of receipts and uses of expenditures, not less than twenty days prior to the convening of each regular session.”

SECTION 3. Section 321-11.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§321-11.5]] Establishment of fees. The department of health, by rules adopted pursuant to chapter 91, may establish reasonable fees for the issuance or renewal of licenses, permits, variances, and various certificates required by law or by the department’s rules[, and such]. The fees may include the cost of related examinations, inspections, investigations, and reviews. All fees paid and collected under this section and sections 321-15, 342F-14, 466J-4, and 466J-5 shall be deposited into the environmental health program enhancement and education fund established under section 321-\_\_\_\_\_.”

SECTION 4. Section 321-15, Hawaii Revised Statutes, is amended to read as follows:

“§321-15 Annual registration; fees, failure to register. Every person holding a license to practice any occupation specified in section 321-13(a)(1) shall reregister with the department of health, in accordance with the rules of the department, [on or] before [January 31] February 1 of each year and shall pay a reregistration fee. The failure, neglect, or refusal of any person holding such a license to reregister or [to] pay the reregistration fee, after thirty days of delinquency, shall constitute a forfeiture of the person’s license; provided that the license shall be restored upon written application therefor together with a payment of all delinquent fees and an additional late reregistration fee that may be established by the director of health. All fees collected pursuant to this section shall be deposited into the environmental health program enhancement and education fund established under section 321-\_\_\_\_\_.”

SECTION 5. Section 342F-14, Hawaii Revised Statutes, is amended to read as follows:

“[[§342F-14]] Fees. The director may establish reasonable fees for the issuance of permits and variances to cover the cost of issuance thereof and for the implementation and enforcement of the terms and conditions of permits and variances (not including court costs or other costs associated with any formal enforcement action). [The] All fees collected pursuant to this section shall be deposited [to the credit of the general fund.] into the environmental health program enhancement and education fund established under section 321-\_\_\_\_\_.”

SECTION 6. Section 466J-4, Hawaii Revised Statutes, is amended to read as follows:

“§466J-4 Licenses required. (a) No person shall practice or offer to practice as a radiographer or as a radiation therapy technologist without an appropriate license previously obtained and maintained in good standing in compliance with this chapter and the rules of the board. [After July 1, 1974, it] It shall be unlawful for any person not appropriately licensed under this chapter to practice or offer to practice radiologic technology.



(b) Every person licensed as a radiographer or as a radiation therapy technologist shall be subject to an annual license fee (initial and renewal) of \$10. The annual period shall commence on July 1 of each year, and the failure of any licensee to pay the licensee's fee shall be grounds for revocation of the licensee's license: All fees collected by the board pursuant to this section shall be deposited into the [general fund.] environmental health program enhancement and education fund established under section 321-\_\_\_\_\_."

SECTION 7. Section 466J-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The applicant applying for a license to practice as a radiographer or as a radiation therapy technologist shall pay a nonrefundable fee of \$10 to the department, plus the cost of an examination. All fees received by the department [and moneys collected under this chapter] pursuant to this section shall be deposited [with the director of finance to the credit of the general fund.] into the environmental health program enhancement and education fund established under section 321-\_\_\_\_\_ ; provided that any other moneys collected pursuant to this chapter shall be deposited with the director of finance to the credit of the general fund, unless otherwise provided by law."

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 9. This Act shall take effect on July 1, 1994 and shall be repealed on July 1, 1996; provided that:

- (1) Sections 321-11.5, 321-15, 342F-14, 466J-4,<sup>2</sup> and 466J-5,<sup>2</sup> Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 30, 1994; and
- (2) The director of health shall transfer to the credit of the state general fund, all unexpended or unencumbered balances remaining in the environmental health program enhancement and education fund, prior to June 30, 1996.

(Approved June 21, 1994.)

Notes

- 1. Edited pursuant to HRS §23G-16.5.
- 2. "466J-4" and "466J-5" substituted for "446J-4" and "446J-5", respectively.

ACT 170

H.B. NO. 2197

A Bill for an Act Relating to Motor Vehicles.

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

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

**"PART . INTERISLAND SHIPPING OF VEHICLES**

**§286- Interisland shipping of vehicles; proof required.** (a) Except as provided in subsection (b), an owner of a vehicle shall not ship that vehicle

interisland in this State unless the owner first presents to the shipper the owner's current certificate of ownership and a current no-fault identification card for the vehicle, provided that presentation of a no-fault identification card shall not be required for:

- (1) Unlicensed propelled vehicles that are not intended for on-road use;
  - (2) Vehicles that have been repossessed by a regulated financial institution or vehicles that have been voluntarily surrendered to a regulated financial institution or its designated agent; or
  - (3) New unregistered vehicles shipped with a bill of lading.
- (b) An owner of a damaged vehicle shall not ship that vehicle interisland in this State for repair, disposal, or salvage unless the owner first presents to the shipper the owner's current certificate of ownership, dealer's license, or a notarized bill of sale, as applicable, which evidences the vehicle's identification number or serial number.
- (c) Any owner who violates this section shall be fined not more than \$100."

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

(Approved June 21, 1994.)

## ACT 171

H.B. NO. 2294

A Bill for an Act Relating to the Counties.

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

SECTION 1. Act 263, Session Laws of Hawaii 1988, repealed a number of chapters of the Hawaii Revised Statutes that had established provisions specific to particular counties of the State and consolidated many statutory provisions relating to the counties in chapter 46, Hawaii Revised Statutes, a chapter applicable generally to all the counties of the State.

Section 46-1.5(10), Hawaii Revised Statutes, as enacted by Act 263, Session Laws of Hawaii 1988, authorized the counties to give or loan their credit in aid of any person or corporation. This provision failed to recognize the limitation of Article VII, section 4, of the Hawaii State Constitution, which provides in part: "nor shall the public credit be used, directly or indirectly, except for a public purpose."

The provisions of section 46-1.5(13), Hawaii Revised Statutes, relating to the general police powers of the counties, included the original provision contained in the former section 70-105, Hawaii Revised Statutes. That section included a limitation recognizing that the counties' police powers are subject to preemption by state statutes that are intended to be exclusive or uniform throughout the State.

However, when enacting Act 212, Session Laws of Hawaii 1991, relating to assistance to homeless families, the language of section 46-1.5(13), Hawaii Revised Statutes, was altered. The new version substitutes the word "ordinance" for "statute", thus creating the confusing sentence that each county may enact ordinances to protect health, life, and property as long as the ordinance does not conflict with the intent of any state statute and the ordinance does not express an intent to be exclusive or uniform throughout the State. As ordinances are limited to individual counties, this substitution appears clearly to be an error.

The purpose of this Act is to:

- (1) Correct technical errors in section 46-1.5, Hawaii Revised Statutes, and conform to the intent of that section; and
- (2) Provide the counties with the authority to abate public nuisances.

SECTION 2. Section 46-15.6, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Public nuisances” shall include but not be limited to the placement of structures, stalls, stands, furniture, and containers on streets, sidewalks, and public places where the placement of structures, stalls, stands, furniture, and containers are inconsistent with or frustrate the purpose, function, or activity for which the street, sidewalk, or public place was intended.”

SECTION 3. Section 46-1.5, Hawaii Revised Statutes, is amended to read as follows:

**“§46-1.5 General powers and limitation of the counties.** Subject to general law, each county shall have the following powers and shall be subject to the following liabilities and limitations:

- (1) Each county shall have the power to frame and adopt a charter for its own self-government, which shall establish the county executive, administrative, and legislative structure and organization, including, but not limited to, the method of appointment or election of officials, their duties, responsibilities, and compensation, and the terms of their office.
- (2) Each county shall have the power to provide for and regulate the marking and lighting of all buildings and other structures that may be obstructions or hazards to aerial navigation, so far as may be necessary or proper for the protection and safeguarding of life, health, and property.
- (3) Each county shall have the power to enforce all claims on behalf of the county and approve all lawful claims against the county, but shall be prohibited from entering into, granting, or making in any manner any contract, authorization, allowance payment, or liability contrary to the provisions of any county charter or general law.
- (4) Each county shall have the power to make contracts and to do all things necessary and proper to carry into execution all powers vested in the county or any county officer.
- (5) Each county shall have the power to maintain channels, whether natural or artificial, including their exits to the ocean, in suitable condition to carry off storm waters; and to remove from the channels, and from the shores and beaches, any debris that is likely to create an unsanitary condition or become a public nuisance; provided that, to the extent any of the foregoing work is a private responsibility, the responsibility may be enforced by the county in lieu of the work being done at public expense. Counties also shall have the power to construct, acquire by gift, purchase, or by the exercise of eminent domain, reconstruct, improve, better, extend, and maintain projects or undertakings for the control of and protection against floods and flood waters, including the power to drain and rehabilitate lands already flooded, and to enact zoning ordinances providing that lands deemed subject to seasonable, periodic, or occasional flooding shall

- not be used for residence or other purposes in a manner as to endanger the health or safety of the occupants thereof, as required by the Federal Flood Insurance Act of 1956 (chapter 1025, Public Law 1016).
- (6) Each county shall have the power to exercise the power of condemnation by eminent domain when it is in the public interest to do so.
  - (7) Each county shall have the power to exercise regulatory powers over business activity as are assigned to them by chapter 445 or other general law.
  - (8) Each county shall have the power to fix the fees and charges for all official services not otherwise provided for.
  - (9) Each county shall have the power to provide by ordinance for the improvement or maintenance assessments of districts within the county.
  - (10) Except as otherwise provided, [each] no county shall have the power to give or loan credit [in any manner] to, or in aid of, any person or corporation, [and any indebtedness or liability incurred contrary to this paragraph shall be void.] directly or indirectly, except for a public purpose.
  - (11) Where not within the jurisdiction of the public utilities commission, each county shall have the power to regulate by ordinance the operation of motor vehicle common carriers transporting passengers within the county and adopt and amend rules the county deems necessary for the public convenience and necessity.
  - (12) Each county shall have the power to enact and enforce ordinances necessary to prevent or summarily remove public nuisances and to compel the clearing or removal of any public nuisance, refuse, and uncultivated undergrowth from streets, sidewalks, public places, and unoccupied lots, and in these connections, to impose and enforce liens upon the property for the cost to the county of removing and completing the necessary work where the owners fail, after reasonable notice, to comply with the ordinances. The authority provided by this paragraph shall not be self-executing, but shall become fully effective within a county only upon the enactment or adoption by the county of appropriate and particular laws, ordinances, or rules defining "public nuisances" with respect to each county's respective circumstances. The counties shall provide the property owner with the opportunity to contest the summary action and to recover the owner's property.
  - (13) Each county shall have the power to enact ordinances deemed necessary to protect health, life, and property, and to preserve the order and security of the county and its inhabitants on any subject or matter not inconsistent with, or tending to defeat, the intent of any state statute, provided also that the [ordinance] statute does not disclose [or] an express [an] or implied intent that the [ordinance] statute shall be exclusive or uniform throughout the State.
  - (14) Each county shall have the power to make and enforce within the limits of the county all necessary ordinances covering: all local police matters; all matters of sanitation; all matters of inspection of buildings; all matters of condemnation of unsafe structures, plumbing, sewers, dairies, milk, fish, and morgues; all matters of the collection and disposition of rubbish and garbage; and to provide

exemptions for homeless facilities and any other program for the homeless authorized by chapter 358D, for all matters under this paragraph; and to appoint county physicians and sanitary and other inspectors as necessary to carry into effect ordinances made under this paragraph, who shall have the same power as given by law to agents of the department of health, subject only to limitations placed on them by the terms and conditions of their appointments; and to fix a penalty for the violation of any ordinance, which penalty may be a misdemeanor, petty misdemeanor, or violation as defined by general law.

- (15) Each county shall have the power to provide public pounds, to regulate the impounding of stray animals and fowl, and their disposition, and to provide for the appointment, powers, duties, and fees of animal control officers.
- (16) Each county shall have the power to purchase and otherwise acquire, lease, and hold real and personal property within the defined boundaries of the county and to dispose of the real and personal property as the interests of the inhabitants of the county may require, except that: any property held for school purposes may not be disposed of without the consent of the superintendent of education; no property bordering the ocean shall be sold or otherwise disposed of; and all proceeds from the sale of park lands shall be expended only for the acquisition of property for park or recreational purposes.
- (17) Each county shall have the power to provide by charter for the prosecution of all offenses and to prosecute for offenses against the laws of the State under the authority of the attorney general of the State.
- (18) Each county shall have the power to make appropriations in amounts deemed appropriate from any moneys in the treasury, for the purpose of community promotion and public celebrations, the entertainment of distinguished persons as may from time to time visit the county, for the entertainment of other distinguished persons as well as public officials when deemed to be in the best interest of the community, and the rendering of civic tribute to individuals who, by virtue of their accomplishments and community service, merit civic commendations, recognition, or remembrance.
- (19) Each county shall have the power to:
  - (A) Construct, purchase, take on lease, lease, sublease, or in any other manner acquire, manage, maintain, or dispose of buildings for county purposes, sewers, sewer systems, pumping stations, [water works,] waterworks, including reservoirs, wells, pipelines, and other conduits for distributing water to the public, lighting plants, and apparatus and appliances for lighting streets and public buildings and manage, regulate, and control the same;
  - (B) Regulate and control the location and quality of all appliances necessary to the furnishing of water, heat, light, power, telephonic, and telegraphic service to the county;
  - (C) Acquire, regulate, and control any and all appliances for the sprinkling and cleaning of the streets and the public ways and for flushing the sewers; and
  - (D) Open, close, construct, or maintain county highways or charge toll on county highways; provided that all revenues received

- from a toll charge shall be used for the construction or maintenance of county highways.
- (20) Each county shall have the power to regulate the renting, subletting, and rental conditions of property for places of abode by ordinance.
  - (21) Unless otherwise provided by law, each county shall have the power to establish by ordinance the order of succession of county officials in the event of a military or civil disaster.
  - (22) Each county shall have the power to sue and be sued in its corporate name.
  - (23) Each county shall have the power to establish and maintain waterworks and sewer works; to collect rates for water supplied to consumers and for the use of sewers; to install water meters whenever deemed expedient; provided that owners of premises having vested water rights under existing laws appurtenant to the premises shall not be charged for the installation or use of the water meters on the premises; to take over from the State existing waterworks systems, including water rights, pipelines, and other appurtenances belonging thereto, and sewer systems, and to enlarge, develop, and improve the same.
  - (24)
    - (A) Each county may impose civil fines, in addition to criminal penalties, for any violation of county ordinances or rules after reasonable notice and requests to correct or cease the violation have been made upon the violator. Any civil fine may be administratively imposed after an opportunity for a hearing under chapter 91. Such a proceeding shall not be a prerequisite for any civil fine or injunctive relief ordered by the circuit court.
    - (B) Each county by ordinance may provide for the addition of any unpaid civil fines, ordered by any court of competent jurisdiction, to any taxes, fees, or charges collected by the county. Each county by ordinance may also provide for the addition of any unpaid administratively imposed civil fines, which remain due after all judicial review rights under section 91-14 are exhausted, to any taxes, fees, or charges collected by the county. The ordinance shall specify the administrative procedures for the addition of the unpaid civil fines to the taxes, fees, or charges and may require hearings or other proceedings. After the unpaid civil fines are added to the taxes, fees, or charges as specified by county ordinance, the unpaid civil fines shall be deemed immediately due, owing and delinquent and may be collected in the same manner as the taxes, fees, or charges. The procedure for collection of unpaid civil fines authorized in this paragraph shall be in addition to any other procedures for collection available to the State and county by law or rules of the courts.
  - (25) Any law to the contrary notwithstanding, any county mayor may exempt by executive order donors, provider agencies, homeless facilities, and any other program for the homeless under chapter 358D from real property taxes, water and sewer development fees, rates collected for water supplied to consumers and for use of sewers, and any other county taxes, charges, or fees; provided that any county may enact ordinances to regulate and grant the exemptions granted by this paragraph.”

ACT 172

SECTION 4. Act 168, Session Laws of Hawaii 1993, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval; provided that on June 30, 1996, [this Act] section 46-1.5(24)(B), Hawaii Revised Statutes, shall be repealed and [section 46-1.5, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.] the sub-paragraph designation for section 46-1.5(24)(A) shall be repealed.”

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

SECTION 6. This Act shall take effect on July 1, 1994.

(Approved June 21, 1994.)

ACT 172

H.B. NO. 2491

A Bill for an Act Relating to the Dispensing of Prescription Drugs.

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

SECTION 1. Section 328-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Pharmacist” means a person licensed under chapter 461 to practice in a pharmacy; and

“Practitioner” means an individual licensed by the State to prescribe prescription drugs within the scope of the person’s practice.”

SECTION 2. Section 328-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In addition to the requirements enumerated in subsection (a), a prescription drug shall be dispensed only:

- (1) [Upon] By a pharmacist upon a written prescription of a practitioner licensed by law to administer the drug[;] or an out-of-state practitioner as provided in section 328-17.6; provided that all valid written prescriptions shall include the following information:
  - (A) The date of issuance;
  - (B) The original signature of the practitioner;
  - (C) The practitioner’s printed name and business address;
  - (D) The name, strength, and quantity of the drug, and specific directions for the drug’s use;
  - (E) The name and address of the person for whom the prescription was written or the name of the owner of the animal for which the drug was prescribed, unless the pharmacy filling the prescription has the address on file;
  - (F) The room number and route of administration, if the patient is in an institutional facility; and

- (G) The number of allowable refills, if the prescription is refillable.
- (2) Upon an oral prescription of the practitioner[,]; provided [the seller] that:
- (A) The pharmacist shall promptly [reduces] reduce to writing [the]:
- (i) The oral prescription in full[, the];
  - (ii) The name, strength, and quantity of the drug, and specific directions for the drug's use[, the];
  - (iii) The date the oral prescription [is] was received[, the name of the seller, the];
  - (iv) The name and code designation of the prescriber[, the];
  - (v) The name and address of the person for whom the drug [is] was prescribed or the name of the owner of the animal for which the drug [is] was prescribed, [the] unless the pharmacy filling the prescription has the address on file; and
  - (vi) The department of health assigning the code designation to that subscriber[, and those];
- and
- (B) The prescriptions [or] and records [being] described in subparagraph (A) shall be subject [at all times] to the inspection of the department or its agents[; or] at all times;
- (3) By a practitioner, other than a pharmacist, to an ultimate user; provided that [the]:
- (A) The practitioner shall promptly [records] record in the practitioner's records [the]:
- (i) The prescription in full[, the];
  - (ii) The name, strength, and quantity of the drug, and specific directions for [its] the drug's use[, the];<sup>1</sup>
  - (iii) The date the drug [is] was dispensed[, the]; and
  - (iv) The name and address of the person for whom the drug [is] was prescribed or the name of the owner of the animal for which the drug [is] was prescribed[, and those];
- and
- (B) The records [being] described in subparagraph (A) shall be subject [at all times] to the inspection of the department or its agents[; or] at all times;
- and
- (4) By refilling any written or oral prescription if that refilling is authorized by the prescriber either [in]:
- (A) In the original prescription; or [by]
- (B) By oral order, which [is] shall be reduced promptly to writing and filed by the pharmacist."

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

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

(Approved June 21, 1994.)

Note

1. Should be underscored.



A Bill for an Act Relating to Health.

*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 as follows:

**“§321- Rapid identification documents.** (a) The department shall adopt rules for emergency medical services which shall include:

- (1) Uniform methods of rapidly identifying an adult person who:
    - (A) Has been certified in a written “comfort care only” document by the person’s physician to be a terminally ill patient of that physician; and
    - (B) Has certified in the same written “comfort care only” document that the person directs emergency medical services personnel, first responder personnel, and health care providers not to administer chest compressions, rescue breathing, electric shocks, or medication, or all of these, given to restart the heart if the person’s breathing or heart stops, and directs that the person is to receive care for comfort only, including oxygen, airway suctioning, splinting of fractures, pain medicine, and other measures required for comfort; and
    - (C) Has been prescribed by a physician a “comfort care only” identifying bracelet or necklace;
  - (2) The written document containing both certifications must be signed by the patient with the terminal condition, by the patient’s physician, and by any one other adult person who personally knows the patient; and
  - (3) The original document containing both certifications and all three signatures shall be on file with the patient’s physician. Two copies of this document shall be given to the patient, one of which shall be used to order the patient’s identifying necklace or bracelet.
- (b) The rules shall provide for the following:
- (1) The patient may revoke the “comfort care only” document at any any time, including during the emergency situation, either verbally or by removing the patient’s identifying bracelet or necklace;
  - (2) An anonymous tracking system shall be developed to assess the success or failure of the procedures and to ensure that abuse is not occurring; and
  - (3) If an emergency medical services person, first responder, or any other health care provider believes in good faith that the provider’s safety, the safety of the family or immediate bystanders, or the provider’s own conscience requires the patient be resuscitated despite the presence of a “comfort care only” bracelet or necklace, then that provider may attempt to resuscitate that patient, and neither the provider, the ambulance service, nor any other person or entity shall be liable for attempting to resuscitate the patient against the patient’s will.”

SECTION 2. Section 321-222, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

““Department” means the department of health.

“Emergency medical services personnel” means any mobile intensive care technician or emergency medical technician who is certified or licensed by the State.

“First responder personnel” means a person who has successfully completed a United States Department of Transportation approved First Responder Course of training in emergency basic life support.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1995.

(Approved June 21, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 174**

H.B. NO. 2605

A Bill for an Act Relating to Liquor.

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

SECTION 1. Section 244D-1, Hawaii Revised Statutes, is amended by amending the definition of “dealer” to read as follows:

““Dealer” means the holder of a manufacturer’s license, [or] a wholesaler’s license, or a brewpub’s license under the liquor law.”

SECTION 2. Section 281-31, Hawaii Revised Statutes, is amended to read as follows:

“§281-31 Licenses, classes. (a) Licenses may be granted by the liquor commission as provided in this section.

(b) Class 1. Manufacturers’ licenses. A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell the same at wholesale in original packages to any person who holds a license to resell the same, and to sell draught beer or wine manufactured from grapes or other fruits grown in the State in any quantity to any person for private use and consumption. Under this license no liquor shall be consumed on the premises except as authorized by the commission. Of this class, there shall be the following kinds:

- (1) Beer;
- (2) Wine;
- (3) Alcohol; and
- (4) Other specified liquor.

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

(c) Class 2. Restaurant licenses. A license under this class shall authorize the licensee to sell liquors [herein] specified in this subsection for consumption on the premises[, except]; provided that a restaurant licensee [may], with commission approval, may provide off-premises catering; provided further that [such] the catering activity [is] shall be directly related to the licensee’s operation as a

restaurant. A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishment shall be as follows:

- (1) A standard bar; or
- (2) A premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules.

If a licensee under class 2 desires to change the category of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee's establishment.

For each category of class 2 licenses there shall be the following kinds:

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

Any licensee holding a different class of license on June 19, 1990, and who would otherwise come within this class of license shall not be required to apply for a new license.

(d) Class 3. Wholesale dealers' licenses. A license for the sale of liquors at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to resell but are not by law required to hold a license, the liquors therein specified in quantities not less than five gallons at one time if sold from or in bulk containers or not less than one gallon if bottled goods; provided that samples of liquor may be sold back to the manufacturer. The license may authorize the licensee to sell draught beer in quantities not less than five gallons at one time to any person for private use and consumption if the licensee files an affidavit with the commission that there is not a class 4 retail dealers licensee available to sell the wholesalers brand of draught beer. Under the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class, there shall be the following kinds:

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

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

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

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

(f) Class 5. Dispensers' licenses. A license under this class shall authorize the licensee to sell liquors [herein] specified in this subsection for consumption on the premises. A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishments shall be as follows:

- (1) A standard bar;
- (2) A premise in which a person performs or entertains unclothed or in attire restricted to use by entertainers pursuant to commission rules;
- (3) A premise in which live entertainment or recorded music is provided[. Facilities]; provided that facilities for dancing by the patrons may be permitted as provided by commission rules; or
- (4) A premise in which employees or entertainers are compensated to sit with patrons whether or not the employees or entertainers are consuming nonalcoholic beverages while in the company of [such] the patrons pursuant to commission rules.

If a licensee under class 5 desires to change the category of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee's establishment.

For each category of class 5 licenses there shall be the following kinds:

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

(g) Class 6. Club licenses. A club license shall be general only (but excluding alcohol) and shall authorize the licensee to sell liquors to members of the club and to guests of the club enjoying the privileges of membership, for consumption only on the premises kept and operated by the club[, and]; provided that the license shall also authorize any club member to keep in the member's private locker on the premises a reasonable quantity of liquor, if owned by the member, for the member's own personal use and not to be sold, and [which] that may be consumed only on the premises.

(h) Class 7. Vessel licenses. A general license may be granted to the owner of any vessel performing a regular water transportation passenger service between any two or more ports in the State for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided [such] the sales are made only while the vessel is en route, and only for consumption by passengers on board. If the vessel has a home port in the State the license shall be issuable in the county [wherein] in which the home port is situated[, otherwise]; provided that if the licensee's home port is not situated in this State, the license shall be issuable in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State the same shall constitute a violation of this chapter.

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

(j) Class 9. Tour or cruise vessel licenses. A general license may be granted to the owner of any tour or cruise vessel for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided [such] that sales [are] be made only for consumption by passengers on board while the vessel

is in operation outside the port or dock of any island of the State. If the vessel has a home port in the State, the license shall be issuable in the county wherein the home port is situated[, otherwise]; provided that if the licensee's home port is not situated in this State, the license shall be issuable in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State, the same shall constitute a violation of this chapter.

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

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

Under [such] this license, the liquors therein specified shall be consumed on the premises.

(l) Class 11. Cabaret license. A cabaret license shall be general only (but excluding alcohol) and shall authorize the sale of liquors for consumption on the premises. This license shall be issued only for premises where food is served, facilities for dancing by the patrons are provided, including a dance floor and live or amplified recorded music or professional entertainment, except professional entertainment by a person who performs or entertains unclothed, is provided for the patrons; provided that professional entertainment by persons who perform or entertain unclothed shall be authorized by:

- (1) A cabaret license for a premise where professional entertainment by persons who perform or entertain unclothed was presented on a regular and consistent basis immediately prior to June 15, 1990;
- (2) A cabaret license [which,] that, pursuant to rules adopted by the liquor commission, permits professional entertainment by persons who perform or entertain unclothed.

A cabaret license under paragraph (1) or (2) authorizing professional entertainment by persons who perform or entertain unclothed shall be transferable through June 30, 2000. A cabaret license under paragraph (1) or (2) authorizing professional entertainment by persons who perform or entertain unclothed shall not be transferable after June 30, 2000, except when the transferee obtains approval from the liquor commission, and pursuant to rules adopted by the commission. Notwithstanding any rule of the liquor commission to the contrary, cabarets in resort areas may be opened for the transaction of business until 4 a.m. throughout the entire week.

(m) Class 12. Hotel licenses. A license to sell liquor in a hotel shall authorize the licensee to provide entertainment and dancing on the hotel premises and to sell all liquors, except alcohol, for consumption on the premises[, except]; provided that a hotel licensee [may], with commission approval, may provide off-premises catering; provided that [such] the catering activity is directly related to the licensee's operation as a hotel.

Procedures such as room service, self-service (no-host), minibars or the like in guest rooms, and service at private parties in areas [which] that are the property of and contiguous to the hotel, are permitted with commission approval.

Any licensee who would otherwise fall within the hotel license class but holds a different class of license may be required to apply for a hotel license.

If the licensee applies for a change of classification prior to July 30, 1992, the licensee shall not be subject to the requirements of sections 281-52, 281-54, and 281-57 through 281-59.

(n) Class 13. Caterer license. A general license may be granted to any licensee who serves food as part of their operation for the sale of liquor (other than alcohol) while performing food catering functions.

No catering service for the sale of liquor will be performed off the licensee's premises unless prior written notice of the service has been delivered to the office of the liquor commission of the county concerned. The notice shall state the date, time, and location of the proposed event and shall include a written statement signed by the owner or representative of the property that [such] the function will be subject to the liquor laws and to inspection by investigators.

(o) Class 14. Brewpub licenses. A brewpub licensee:

- (1) Shall manufacture not more than three thousand barrels of malt beverages on the licensee's premises during the license year;
- (2) May sell malt beverages manufactured on the licensee's premises for consumption on the premises;
- (3) May sell malt beverages, not more than fifteen per cent of the licensee's total production, manufactured by the licensee in brewer-sealed packages to class 3, wholesale dealer licenses; and
- (4) May sell intoxicating liquor, regardless of source, to consumers for consumption on the licensee's premises; provided that the premises is owned and operated by the licensee.

The categories of establishments shall be as follows:

- (A) A standard bar; or
- (B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules.

[(o)] (p) It shall be unlawful for any retail licensee, except a class 10 licensee, to purchase, acquire, or sell liquor from any person other than a wholesaler licensed pursuant to this chapter, except as otherwise provided in this section.

Sections 281-57 to 281-61 shall not apply to classes 7 through 10 and 13."

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

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

(Approved June 21, 1994.)

## ACT 175

H.B. NO. 2623

A Bill for an Act Relating to Public Land Leases.

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

SECTION 1. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§171- Lease restriction; lease term extension. In addition to the restrictions provided in section 171-36 and 171-37, lessees as of the effective date of this Act whose leases have a total lease period of less than sixty-five years from the date originally entered into and including any extensions, shall have until June 30, 1995, to apply to the board and the board may extend the term of

the lease to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with any lending institution registered and qualified to do business in the State; provided that the approval of any extension shall be subject to the following:

- (1) The aggregate of the initial term and any extension granted shall not be for more than sixty-five years;
- (2) The demised premises have been used substantially for the purpose for which they were originally leased;
- (3) There shall be an immediate renegotiation of the lease rental and the new rental shall not be less than the rental for the preceding term;
- (4) The mortgage loan moneys shall solely be used towards improvement of the lease premises;
- (5) The lease shall not be assigned within five years from the date of execution of the mortgage loan; and
- (6) The rules of the board, setting forth any additional terms and conditions which shall insure and promote the purposes of the demised premises."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval and shall be repealed on July 1, 1995.

(Approved June 21, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 176

H.B. NO. 2635

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

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

SECTION 1. The legislature finds that Hawaii's energy resources and physical environment must be managed and protected in a manner that ensures the health, safety, and welfare of the citizens of the State and preserves our limited natural resources for future generations. The 1993 Energy and Environmental Summit was convened by the legislature on October 8, 1993 to identify issues and build broad-based support for initiatives that will move Hawaii forward in the areas of energy and the environment. This bill is the result of the collaborative efforts of participants of the Summit.

The legislature finds that the public utilities commission should give approval to guidelines initiated and enforced by a public utility. These guidelines, rules, or other standards make a nonutility generator monetarily responsible for the public utility's costs and profits, and have the effect of discouraging the development and maintenance of nonfossil fueled nonutility sources of electric energy and discouraging the efficient use of fossil fuel by nonutility generators.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§269- Approval of rules of a public utility.** Any rules, guidelines,

or other standards of a public utility which interpret federal or state laws governing nonutility generators, or which make a nonutility generator monetarily responsible for the public utility's costs and profits of doing business as a public utility, shall be approved by the public utilities commission before adoption. As used in this section, a "nonutility generator" means a person that produces electric power but is not a public utility."

SECTION 3. New statutory material is underscored.<sup>1</sup>

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

(Approved June 21, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 177**

H.B. NO. 2680

A Bill for an Act Relating to Land Exchange.

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

SECTION 1. The legislature finds that it is in the public interest to enter into a land exchange with the George Galbraith estate involving private lands north of Wahiawa, Oahu, for public lands in Kapolei, Oahu.

The legislature authorized the acquisition of approximately 1,100 acres of the Kapolei lands for land banking for future housing and public facility needs. The University of Hawaii proposed to locate its West Oahu campus on up to 500 acres of these lands. All or portions of the remaining area may be available for the development of affordable housing.

A land exchange with Galbraith estate is consistent with the State's housing objective in Kapolei and will create an opportunity to provide affordable off-campus housing to meet the future demands generated by the University of Hawaii-West Oahu campus at Kapolei. The land exchange will also provide the State with additional agricultural lands in central Oahu.

SECTION 2. Notwithstanding the provisions of section 171-50(b), Hawaii Revised Statutes, the Seventeenth Legislature approves the land exchange involving private lands north of Wahiawa, Oahu, owned by the George Galbraith estate, and public lands in Kapolei, Oahu, provided that:

- (1) The public lands shall be of substantially equal "fair market" value to that of private land;
- (2) The "fair market" value of the private land and the public land shall be separately determined by a disinterested qualified appraiser or appraisers, and the cost shall be borne equally between the owner and the board of land and natural resources;
- (3) In determining the "fair market" value, the state land shall be appraised as urban, with proper credit given for existing surrounding improvements, and the private land shall be appraised as agricultural;
- (4) No payment by the State shall be required should the private land exceed the value of the public land, but any difference in value of the public land over the private land shall be paid to the State at the



- time of the exchange; provided no exchange shall be made should the public land exceed 120 percent of the value of the private land;
- (5) The land exchange shall not interfere with or adversely affect the set aside of at least 500 acres of the publicly-owned Kapolei lands for the location of the University of Hawaii-West Oahu campus at Kapolei; and
  - (6) No overhead high-voltage electric transmission system of forty-six kilovolt or greater shall be placed, constructed, or otherwise built on the 500 acres of Kapolei lands designated for the University of Hawaii-West Oahu campus at Kapolei to service such exchanged lands.

SECTION 3. Notwithstanding the provisions of section 171-50(c), Hawaii Revised Statutes, the Seventeenth Legislature approves the land exchange involving private lands north of Wahiawa, Oahu, owned by the George Galbraith estate, and public lands in Kapolei, Oahu, provided that an exchange deed is executed between the parties which contains the following:

- (1) The location and area of the parcel of land to be exchanged;
- (2) The value of the lands to be conveyed by the State and the private party;
- (3) The name or names of the appraiser or appraisers; and
- (4) The date of the appraisal which shall not be more than six months prior to the date of final approval of the exchange by the board of land and natural resources.

SECTION 4. This Act shall take effect upon its approval and shall be repealed on June 30, 1995.

(Approved June 21, 1994.)

**ACT 178**

H.B. NO. 2725

A Bill for an Act Relating to Forfeiture.

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

SECTION 1. Section 712A-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Seizure for evidence” means seizure of property by a law enforcement officer.”

SECTION 2. Section 712A-2, Hawaii Revised Statutes, is amended to read as follows:

“[§712A-2] Jurisdiction. [The State may commence a proceeding in the circuit court if the property for which forfeiture is sought is within this State at the time of the filing of the action or if the courts of this State have in personam jurisdiction of an owner of or interest-holder in the property.] (1) The State may commence an in rem proceeding in the circuit court if the property for which forfeiture is sought is within this State at the time of the filing of the action.”

(2) The State may commence a civil in personam proceeding in the circuit court if the courts of this State have in personam jurisdiction of an owner of or interest-holder in the property.

(3) The State may commence a criminal in personam proceeding in the court which has in personam jurisdiction of an owner of or interest-holder in the property.”

SECTION 3. Section 712A-6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§712A-6**~~]]~~ **Seizure of property.** (1) [Property] Personal property subject to forfeiture under this chapter may be seized for forfeiture by a law enforcement officer:

- (a) On process issued pursuant to the rules of civil procedure or the provisions of this chapter including a seizure warrant;
- (b) By making a seizure for forfeiture on property seized on process issued pursuant to law; or
- (c) By making a seizure for forfeiture without court process as follows:
  - (i) The seizure for forfeiture is of property seized incident to an arrest or search;
  - (ii) The property subject to seizure for forfeiture has been the subject of a prior judgment in favor of the State or any other state or the federal government in forfeiture proceeding;
  - (iii) The law enforcement officer has probable cause to believe that the property seized for forfeiture is directly or indirectly dangerous to health or safety; or
  - (iv) The law enforcement officer has probable cause to believe that the property is subject to forfeiture.

(2) Real property subject to forfeiture under this chapter may be seized for forfeiture by a law enforcement officer pursuant to court order following a pre-seizure hearing in the circuit court in the circuit in which the property is located with notice of the pre-seizure hearing to be made to the owners and interest holders pursuant to section 712A-8 of this chapter. The court shall order the real property in question to be seized for forfeiture if it finds probable cause that the real property is subject to forfeiture under any provision of the Hawaii Revised Statutes.

~~[(2)]~~ (3) In determining probable cause for seizure, the fact that a firearm, money, or any negotiable instrument was found in proximity to contraband or to instrumentalities of an offense gives rise to an inference that the money, or instrument was the proceeds of contraband or that the firearm, money or instrument was used or intended to be used to facilitate commission of the offense.”

SECTION 4. Section 712A-10, Hawaii Revised Statutes is amended to read as follows:

**“§712A-10 Administrative forfeiture.** The prosecuting attorney may initiate administrative forfeiture of property other than real property, the estimated value of which is less than \$100,000, or of any vehicle or conveyance, regardless of value. Administrative forfeiture shall be processed in the following manner:

- (1) The prosecuting attorney shall file a petition with the attorney general, pursuant to rules adopted by the attorney general.
- (2) The prosecuting attorney shall give notice of pending forfeiture by making reasonable efforts to serve a copy of the petition in a manner

provided in section 712A-8(a) or 712A-8(b) on all persons known to have an interest in the property, together with instructions for filing a claim and cost or in pauperis bond, or a petition for remission or mitigation.

- (3) The attorney general shall give notice of intention to forfeit the property administratively by publication in the manner provided in section 712A-8(c). Notice by publication shall include:
  - (a) A description of the property;
  - (b) The estimated value of the property;
  - (c) The date and place of the seizure;
  - (d) The offense for which the property is subject to forfeiture;
  - (e) Instructions for filing a claim and cost or in pauperis bond, or a petition for remission or mitigation; and
  - (f) Notice that the property will be forfeited to the State if a claim and cost or in pauperis bond or petition for remission or mitigation is not filed in substantial compliance with this section.
- (4) Persons claiming an interest in the property may file either a petition for remission or mitigation of forfeiture, or a claim and cost or in pauperis bond, but not both, with the attorney general, within thirty days of notice by publication or receipt of written notice, whichever is earlier. Notwithstanding section 1-29, the thirty-day time period prescribed herein is computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, or holiday and then it is also excluded, and the thirty-day time period runs until the end of the next day which is not a Saturday, Sunday, or a holiday. "Holiday" includes any day designated as a holiday pursuant to section 8-1.
- (5) Any person claiming seized property may seek remission or mitigation of the forfeiture by timely filing a petition with the attorney general. A petition for remission or mitigation shall not be used to challenge the sufficiency of the evidence to support the forfeiture or the actions of any government official but shall presume a valid forfeiture and ask the attorney general to invoke the executive power to pardon the property, in whole or in part. The petition shall be signed by the petitioner and sworn on oath before a notary public and shall contain the following:
  - (a) A reasonably complete description of the property;
  - (b) A statement of the interest of the petitioner in the property, as owner or interest-holder which may be supported by bills of sale, contracts, or mortgages, or other documentary evidence; and
  - (c) Facts and circumstances sufficient to show whether the petitioner:
    - (i) Owns or holds an interest in the seized property as defined by section 712A-1;
    - (ii) Had any knowledge that the property was or would be involved in any violation of the law;
    - (iii) Had any knowledge of the particular violation which subjected the property to seizure and forfeiture;
    - (iv) Had any knowledge that the user of the property had any record, including arrests, except when the person was acquitted or the charges dismissed due to lack of evidence, for the violation which subjected the property to

seizure and forfeiture or for any crime which is similar in nature.

Any subsequent pleadings or written communications alleging matters pertaining to paragraph (5)(b) or (c) of this section must also be signed by the petitioner and sworn on oath before a notary public.

- (6) If the attorney general, with sole discretion, determines that remission is not warranted, the attorney general may discretionarily mitigate the forfeiture where the petitioner has not met the minimum requirements for remission but where there are present other extenuating circumstances indicating that some relief should be granted to avoid extreme hardship. Mitigation may also be granted where the minimum requirements for remission have been met but the overall circumstances are such that the attorney general determines that complete relief is not warranted. Mitigation shall take the form of a money penalty imposed upon the petitioner which shall be deposited into the criminal forfeiture fund established under section 712A-16. Extenuating circumstances include:
- (a) Language or culture barrier;
  - (b) Humanitarian factors such as youth or extreme age;
  - (c) Presence of physical or mental disease, disorder or defect;
  - (d) Limited or peripheral criminal culpability;
  - (e) Cooperation with the seizing agency or the prosecuting attorney; and
  - (f) Any contributory error on the part of government officials.
- (7) It shall be the duty of the attorney general to inquire into the facts and circumstances alleged in a petition for remission or mitigation of forfeiture. However, no petitioner is entitled to a hearing on the petition for remission or mitigation. Hearings, if any, shall be held at the discretion of the attorney general.
- (8) The attorney general shall provide the seizing agency and the petitioner a written decision on each petition for remission or mitigation within sixty days of receipt of the petition unless the circumstances of the case require additional time, in which case the attorney general shall notify the petitioner in writing and with specificity within the sixty-day period that the circumstances of the case require additional time and further notify the petitioner of the expected decision date.
- (9) Any person claiming seized property may seek judicial review of the seizure and proposed forfeiture by timely filing with the attorney general a claim and bond to the State in the amount of ten per cent of the estimated value of the property or in the sum of \$2,500, whichever is greater, with sureties to be approved by the attorney general, upon condition that if the claimant fails to prove that claimant's interest is exempt from forfeiture under section 712A-5, the claimant shall pay the State's costs and expenses, including reasonable attorneys fees incurred in connection with a judicial proceeding. In lieu of a cost bond, a claimant may file an in pauperis bond sworn on oath before a notary public. An in pauperis bond shall be in the form set out in the appendix to the rules of penal procedure. The claim shall be signed by the claimant and sworn on oath before a notary public and shall comply with the requirements of section 712A-12(5). Upon receipt of the claim and bond, the attorney general shall notify the prosecuting attorney who may

discretionarily continue to seek forfeiture by petitioning the circuit court for forfeiture of the property within forty-five days of receipt of notice that a proper claim and bond has been filed. The prosecuting attorney may also elect to honor the claim in which case the prosecuting attorney shall notify the seizing agency and authorize the release of the seizure for forfeiture on the property<sup>1</sup> on any specified interest in it.

- (10) If a judicial forfeiture proceeding is instituted subsequent to notice of administrative forfeiture, no duplicate or repetitive notice shall be required. The judicial proceeding, if any, shall adjudicate all timely filed claims.
- (11) In the event a claim and bond has not been filed in substantial compliance with this section, or if the attorney general, with sole discretion, determines that remission or mitigation is not warranted, the attorney general shall order forfeited all property seized for forfeiture. In the event the attorney general, with sole discretion, determines that remission or mitigation is warranted, the attorney general shall notify the seizing agency and the prosecuting attorney and order the release of the seizure for forfeiture on the property or on any specified interest in it. There shall be no appeal from the attorney general's decision or order of forfeiture or remission or mitigation.
- (12) Administrative proceedings and the adoption of rules under this section are exempt from the requirements of chapter 91, the Hawaii administrative procedure act, and are adjudicatory functions for the purposes of applicable sections of the Hawaii Revised Statutes."

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

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

(Approved June 21, 1994.)

**Note**

1. Prior to amendment "or" appeared here.

**ACT 179**

H.B. NO. 2897

A Bill for an Act Relating to the Natural Energy Laboratory of Hawaii Authority.

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

SECTION 1. The purpose of this Act is to retain the natural energy laboratory of Hawaii authority special fund for the operation, maintenance, and management of the authority's parks, projects, facilities, services, and publications.

SECTION 2. Section 227D-5, Hawaii Revised Statutes, is amended to read as follows:

**"§227D-5 Special fund.** There is established in the state treasury a fund to

be known as the natural energy laboratory of Hawaii authority special fund, into which shall be deposited all [grants, gifts,] moneys and fees from tenants or other users of the authority's parks, projects, other leased facilities, and other services and publications[.] as well as any grants or gifts received by the authority. All moneys in the fund are appropriated for the purposes of and shall be expended by the authority for the operation, maintenance, and management of its parks, projects, facilities, services, and publications, and for the design and construction of new facilities and the renovation of or addition to existing facilities."

SECTION 3. Act 280, Session Laws of Hawaii 1993, is amended by amending section 64, as follows:

"SECTION 64. This Act shall take effect on July 1, 1993, except that sections [19,] 21, 25, 38, and 41 shall take effect on June 30, 1994; provided that the director of finance shall transfer to the credit of the state general fund:

- (1) On July 1, 1993, all unexpended or unencumbered balances remaining in any special or revolving fund scheduled for repeal on July 1, 1993, under this Act; and
- (2) On June 30, 1994, all unexpended or unencumbered balances remaining in any special or revolving fund scheduled for repeal on June 30, 1994, under this Act."

SECTION 4. Act 280, Session Laws of Hawaii 1993, is amended by repealing section 19.

["SECTION 19. Section 227D-5, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~§227D-5] **Special fund.** There is established in the state treasury a fund to be known as the natural energy laboratory of Hawaii authority special fund, into which shall be deposited all moneys and fees from tenants or other users of the authority's parks, projects, other leased facilities, and other services and publications. All moneys in the fund are appropriated for the purposes of and shall be expended by the authority for the operation, maintenance, and management of its parks, projects, facilities, services, and publications.] **Project operating funds; disposition of receipts.** (a) All moneys for the operation, maintenance, and management of the natural energy laboratory, and any park, project, facility, service, or publication of the authority shall be allocated by the legislature through appropriations out of the state general fund. The authority shall include in its budgetary request for each upcoming fiscal period, the amounts necessary to effectuate the purposes of this section.

(b) All moneys and fees collected from tenants and other users of the authority's parks, projects, leased facilities, other services, and publications shall be deposited to the credit of the state general fund.""]

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

SECTION 6. This Act shall take effect on June 29, 1994.

(Approved June 21, 1994.)

A Bill for an Act Relating to Fireworks.

*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  
FIREWORKS**

§ **-1 Title.** This chapter shall be known and may be cited as the “Fireworks Control Law”.

§ **-2 Definitions.** As used in this chapter unless the context requires otherwise:

“Aerial common fireworks” means any firework, classified as common fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G, which produces an audible or visible effect and which is designed to rise into the air and explode or detonate in the air or to fly about above the ground and which is prohibited for use by any person who does not have a display permit issued by a county. “Aerial common fireworks” include firework items commonly known as bottle rockets, sky rockets, missile-type rockets, helicopters, torpedoes, daygo bombs, roman candles, jumping jacks which move about the ground farther than inside a circle with a radius of 12 feet as measured from the point where the item was placed and ignited, types of balloons which require fire underneath to propel the same, aerial shells and mines.

“Common fireworks” means any firework designed primarily for retail sale to the public during prescribed dates and which produces visible or audible effects through combustion and which is classified as common fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G.

“Department” means the State Fire Council.

“Fireworks” means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation and classified as common or special fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0335 1.3G or UN 0336 1.4G. The term “fireworks” shall not include automotive safety flares, nor shall the term be construed to include toy pistols, toy cannons, toy guns, party poppers, pop-its or other devices which contain twenty-five hundredths of a grain or less of explosive substance. The term “fireworks” also shall not include any explosives and pyrotechnics regulated under chapter 396.

“License” means a nontransferable, formal authorization, valid for a period not to exceed one calendar year from the date of issuance and which the department is hereby authorized to issue under this chapter, to engage in the act or acts specifically designated herein.

“Non-aerial common fireworks” means any firework, classified as common fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN

0336 1.4G, which produces an audible or visible effect and which is designed to remain on or near the ground and which, while stationary or spinning rapidly on or near the ground, emits smoke, a shower of colored sparks, whistling effects, flitter sparks or balls of colored sparks and combination items which contain one or more of these effects. "Non-aerial common fireworks" include firework items commonly known as firecrackers which are single paper cylinders not exceeding one and one-half inches in length excluding the fuse and one quarter of an inch in diameter containing a charge of not more than 50 milligrams of pyrotechnic composition, snakes, sparklers, fountains, and cylindrical or cone fountains which emit effects up to a height not greater than twelve feet above the ground, illuminating torches, bamboo canons, whistles, toy smoke devices, wheels, and ground spinners which when ignited remain within a circle with a radius of twelve feet as measured from the point where the item was placed and ignited, novelty or trick items, combination items, and other fireworks of like construction which are designed to produce the same or similar effects.

"Permit" means a nontransferable, formal authorization, valid for a period not to exceed one calendar year from the date of issuance and which a county is hereby authorized to issue under this chapter, to engage in the act or acts specifically designated herein.

"Pyrotechnic composition" or "pyrotechnic contents" means the combustible or explosive component of fireworks.

"Special fireworks" means any firework designed primarily for exhibition display by producing visible or audible effects and classified as special fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0335 1.3G and which are prohibited for use by any person who does not have a display permit issued by a county.

§ -3 **Permissible uses of non-aerial common fireworks.** Non-aerial common fireworks may be set off, ignited, discharged, or otherwise caused to explode within the State only:

- (1) From 9:00 p.m. on New Year's Eve to 1:00 a.m. on New Year's Day; from 9:00 p.m. Chinese New Year's Eve to 1:00 a.m. Chinese New Year's Day; and from 9:00 p.m. on the Fourth of July to 1:00 a.m. on July 5; or
- (2) From 9:00 a.m. to 9:00 p.m. as allowed by permit pursuant to section -10 if the proposed use is to occur at any time other than during the periods prescribed in paragraph (1).

§ -4 **Permissible uses of special and aerial common fireworks.** Special and aerial common fireworks may be purchased, set off, ignited, or otherwise caused to explode in the State only if permitted in writing pursuant to section -10.

§ -5 **General prohibitions.** It shall be unlawful for any person without a permit to:

- (1) Remove or extract the pyrotechnic contents from any fireworks;
- (2) Throw any ignited fireworks from a moving vehicle; or
- (3) Set off, ignite, discharge, or otherwise cause to explode any fireworks:
  - (A) At any time not within the periods for use prescribed in section -3, unless permitted pursuant to section -10;



- (B) Within one thousand feet from any operating hospital, convalescent home, home for the elderly, or animal hospital;
- (C) In any school building, or on any school grounds and yards without first obtaining authorization from appropriate school officials;
- (D) On any highway, alley, street, sidewalk, or other public way; in any park; within fifty feet from a canefield; or within one thousand feet from any building used for public worship during the periods when services are held; except as may be permitted pursuant to section -10; and
- (E) Within five hundred feet from any hotel.

§ -6 **Exceptions.** The prohibitions in section -5 do not apply to:

- (1) The use of flares, noisemakers, or signals for warning, pest control, or illumination purposes by police and fire departments, utility companies, transportation agencies, and other governmental or private agencies or persons, including agricultural operations, in connection with emergencies, their duties, or business; and
- (2) The sale or use of blank cartridges for a show or theater, or for signal, commercial, or institutional purposes in athletics or sports.

§ -7 **License or permit required.** (a) It shall be unlawful for any person to import any fireworks into the State, to store, offer to sell or sell, at wholesale or retail any fireworks, unless the person has a valid license issued by the department.

(b) It shall be unlawful for any person to set off, ignite or discharge aerial common or special fireworks at any time or to set off, ignite or discharge non-aerial common fireworks at any time other than the periods for use prescribed in section -3(1) in any county unless the person has a valid permit issued by the county in which the permitted activity is to occur.

§ -8 **Application for license.** (a) The license required under section -7 shall be issued by the department and shall be nontransferable. The license shall specify the date of issuance or effect and the date of expiration, which shall be March 31 of each year. The application shall be made on a form setting forth the date upon which the importations are to begin, the address of the location of the importer, and the name of the proprietor or, if a partnership, the name of the partnership and the names of all partners or, if a corporation, the name of the corporation and the names of its officers.

(b) Each storage, wholesaling and retailing site shall be required to obtain a separate license. The license shall specify the date of issuance or effect and the date of expiration, which shall be March 31st of each year. The application shall be made on a form setting forth the date upon which the storage, sale or offers for sale are to begin, the address of the location of the licensee, and the name of the proprietor, or, if a partnership, the name of the partnership and the names of all partners or, if a corporation, the name of the corporation and the name of its officers. Any license issued pursuant to this chapter may be revoked by the department if the licensee violates any provision of this Chapter or if the licensee stores or handles the fireworks in such a manner as to present an unreasonable safety hazard.

(c) It shall be unlawful for any person, other than a wholesaler who is selling or transferring fireworks to a licensed retailer, to sell or offer to sell any fireworks:

- (1) More than seven calendar days prior to the designated period for use as described in section -3(1);
- (2) At other than the designated periods for use set forth in section -3(1), unless the purchaser presents a valid permit; or
- (3) At any other time, and whenever the sale of special fireworks is involved, to any person who does not present a permit duly issued as required by section -7. The permit shall be signed by the seller or transferor at the time of sale or transfer of the fireworks, and the seller or transferor shall indicate on the permit the amount and type of fireworks sold or transferred. No person shall sell or deliver fireworks to any permittee in any amount in excess of the amount specified in the permit, less the amount shown on the permit previously to have been purchased.

(d) Any license issued pursuant to this chapter shall be prominently displayed in public view at each licensed location.

§ **-9 Application for permit.** (a)<sup>1</sup> The permit required under section -7 shall be issued by the county Fire Department and be nontransferable. The county shall issue all permits for which complete applications have been submitted and which contain only correct information. The permit shall specify the date of issuance or effect and the date of expiration but in no case for a period to exceed one year. The application shall be made on a form setting forth the dates for which the permit shall be valid, the location where the permitted activity is to occur, and the name of the proprietor or, if a partnership, the name of the partnership and the names of all partners or, if a corporation, the name of the corporation and the names of its officers. The permit application may be denied if the proposed use of fireworks presents a substantial inconvenience to the public or presents an unreasonable fire or safety hazard. Any permit issued pursuant to this chapter shall be prominently displayed in public view at the site.

§ **-10 Permits.** A permit shall be required for the purchase, setting off, ignition, or discharge of:

- (1) Any non-aerial common fireworks when the proposed date of the use of the fireworks is not within the periods prescribed in section -3(1); and
- (2) Any aerial common and any special fireworks under all circumstances and at any time.

§ **-11 Fee.** The fee for the license required under section -7 shall not exceed \$110 for each year or fraction of a year in which the licensee plans to conduct business and shall be payable to the department. The fee for the permit required under section -7 shall be no greater than \$25 for each year or fraction of a year in which the permittee plans to conduct business and shall be payable to the county in which the permitted activity is to occur.

§ **-12 Sale to minors.** It shall be unlawful for any person to offer for sale, sell, or give any fireworks to minors, and for any minor to possess, purchase, or set off, ignite, or otherwise cause to explode any fireworks, except as provided in section -13.

§ **-13 Liability of parents or guardians.** The parents, guardian, and other persons having the custody or control of any minor, who knowingly permit the minor to possess, purchase, or set off, ignite, or otherwise cause to explode

any fireworks, shall be deemed to be in violation of this chapter and shall be subject to the penalties thereunder, except that the parents or guardian may allow the minor to use fireworks while under the immediate supervision and control of the parent or guardian, or under the supervision and control of another adult.

§ **-14 Penalty.** (a) Any person importing aerial common fireworks or special fireworks into the State without first having obtained a license as required by section -7 shall be guilty of a class C felony.

(b) Except as provided in subsection (a), any person violating any other provision of this chapter, shall be guilty of a petty misdemeanor.

§ **-15 Notice requirements.** Each licensed retail outlet shall post adequate notice that clearly cautions each person purchasing fireworks of the prohibitions, liabilities, and penalties incorporated in sections -12, -13, and -14.

§ **-16 Permit for public display.** (a) Any person desiring to set off, ignite, or discharge special fireworks for a public display shall apply to, and obtain a permit as required by section -7, from the county not less than twenty days before the date of the display.

(b) The application shall state, among other things:

- (1) The name, age, and address of the applicant;
- (2) The name, age, and address of the person who will operate the display, and verification that the person is a licensed pyrotechnic operator;
- (3) The time, date, and place of the display;
- (4) The type and quantity of special fireworks to be displayed; and
- (5) The purpose or occasion for which the display is to be presented.

(c) No permit shall be issued under this section unless the applicant presents, at the applicant's option, either:

- (1) A written certificate of an insurance carrier, which has been issued to or for the benefit of the applicant, or a policy providing for the payment of damages in the amount of not less than \$5,000 for injury to, or death of, any one person, and subject to the foregoing limitation for one person; in the amount of not less than \$10,000 for injury to, or death of, two or more persons; and in the amount of not less than \$5,000 for damage to property, caused by reason of the authorized display and arising from any tortious acts or negligence of the permittee, the permittee's agents, employees, or subcontractors. The certificate shall state that the policy is in full force and effect and will continue to be in full force and effect for not less than ten days after the date of the public display; or
- (2) The bond of a surety company duly authorized to transact business within the State, or a bond with not less than two individual sureties who together have assets in the State equal in value to not less than twice the amount of the bond, or a deposit of cash, in the amount of not less than \$10,000 conditioned upon the payment of all damages that may be caused to any person or property by reason of the authorized display and arising from any tortious acts or negligence of the permittee, the permittee's agents, employees, or subcontractors. The security shall continue to be in full force and effect for not less than ten days after the date of the public display.

The county may require coverage in amounts greater than the minimum amounts set forth in paragraph (1) or (2) if deemed necessary or desirable in consideration of such factors as the location and scale of the display, the type of special fireworks to be used, and the number of spectators expected.

(d) The county, pursuant to duly adopted rules, shall issue the permit after being satisfied that the requirements of subsection (c) have been met, the display will be handled by a pyrotechnic operator duly licensed by the State, the display will not be hazardous to property, and the display will not endanger human life. The permit shall authorize the holder to display special fireworks only at the place and during the time set forth therein, and to acquire and possess the specified special fireworks between the date of the issuance of the permit and the time during which the display of those special fireworks is authorized.

§ **-17 Preemption.** (a) It is the intent of the legislature to occupy the entire field of regulation in all matters that are the subject of this chapter.

(b) Notwithstanding any other law to the contrary, no county shall enact any ordinances or adopt any rules, except as required in section -7 regulating fireworks. All ordinances and rules regulating fireworks, adopted by a county before the effective date of this section, are declared null and void.

§ **-18 Effect on other laws.** Nothing in this chapter shall be construed to apply to the possession, storage, sale, or use of explosives and combustibles in accordance with chapter 396.

§ **-19 Rules.** The department shall adopt rules pursuant to chapter 91 to carry out the purposes of this chapter, including, but not limited to different classes of licenses and permits for matters concerning special and common fireworks.

§ **-20 Enforcement.** This chapter shall be enforced by the department and designated county agencies. The counties are authorized to enforce and administer the provisions of this chapter regulating permits for display, agricultural uses, uses by commercial establishments and wholesale and retail sales of fireworks.”

SECTION 2. This Act shall take effect on March 31, 1995.

(Approved June 21, 1994.)

**Note**

1. No subsection (b) designation.

**ACT 181**

H.B. NO. 2981

A Bill for an Act Relating to the Setting of Bail.

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

SECTION 1. Section 804-5, Hawaii Revised Statutes, is amended to read as follows:

“§804-5 **By whom allowed.** In cases where the punishment for the

## ACT 182

offense charged may be imprisonment for life not subject to parole, or imprisonment for a term more than ten years with or without fine, a judge or justice of a court of record, [[other than] including a district judge.[]] shall be competent to admit the accused to bail, in conformity with sections 804-3 to 6. In all other cases the accused may be so admitted to bail by any judge or justice of a court of record, [[]including a district judge,[]] and in cases where the punishment for the offense charged may not exceed two years' imprisonment with or without fine, the sheriff, the sheriff's deputy, the chief of police or any person named by the chief of police, or the sheriff of Kalawao, regardless of the circuit within which the alleged offense was committed, may admit the accused person to bail."

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

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

(Approved June 21, 1994.)

## ACT 182

H.B. NO. 2985

A Bill for an Act Relating to Abuse of Family and Household Members.

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

SECTION 1. Section 709-906, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

"(4) Any police officer, [may]<sup>1</sup> with or without a warrant, may<sup>1</sup> take the following course of action where the officer has reasonable grounds to believe that there was recent physical abuse or harm inflicted by one person upon a family or household member, whether or not such physical abuse or harm occurred in the officer's presence:

- (a) The police officer may make reasonable inquiry of the family or household member upon whom the officer believes recent physical abuse or harm has been inflicted and other witnesses as there may be; [and]
- (b) Where the police officer has reasonable grounds to believe that there is probable danger of further physical abuse or harm being inflicted by one person upon a family or household member, the police officer may lawfully order [such] the person to leave the premises for a cooling off period of [twelve] twenty-four hours; [and] provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects;
- (c) Where the police officer makes the finding referred to in (b) and the incident occurs after 12:00 p.m. on any Friday, or on any Saturday, Sunday or legal holiday, the order to leave the premises shall commence immediately and be in full force but the twenty-four hour period shall be enlarged and extended until 4:30 p.m. on the first day following the weekend or legal holiday;
- [(c)] (d) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A

copy of the warning citation shall be retained by the police officer and attached to a written report which shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person; and

- [(d)] (e) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of [twelve hours] the cooling off period, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member.”

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

SECTION 3. This Act shall take effect upon its approval and shall be repealed on June 30, 1995.

(Approved June 21, 1994.)

Note

1. So in original.

ACT 183

H.B. NO. 3209

A Bill for an Act Relating to Dental Hygienists.

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

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

“**§26H-4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1994:

- [(1)] Chapter 447 (Dental Hygienists)
- (2) (1) Chapter 457 (Board of Nursing)
- [(3)] (2) Chapter 457A (Nurse Aides)
- [(4)] (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- [(5)] (4) Chapter 461 (Board of Pharmacy)
- [(6)] (5) Chapter 468L (Travel Agencies)

(b) The following chapters are hereby repealed effective December 31, 1995:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 445 Part V (Pawnbrokers)
- (5) Chapter 448H (Elevator Mechanics Licensing Board)
- (6) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (7) Chapter 453 (Board of Medical Examiners)
- (8) Chapter 463E (Podiatry)

(c) The following chapters and sections are hereby repealed effective December 31, 1996:

ACT 183

- (1) Sections 321-13 to 321-15 (laboratory directors, laboratory technologists, laboratory supervisors, laboratory technicians, and sanitarians)
- (2) Chapter 321, Part XXX, (Tattoo Artists)
- (3) Chapter 321, Part XXXI, (Midwives)
- (4) Sections 431:10A-116(4) and 432:1-605 (Mammogram Screening)
- (5) Chapter 448F (Electrologists)
- (6) Chapter 466J (Board of Radiologic Technology)
- (d) The following chapters are hereby repealed effective December 31, 1997:
  - (1) Chapter 438 (Board of Barbers)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 455 (Board of Examiners in Naturopathy)
  - (4) Chapter 459 (Board of Examiners in Optometry)
  - (5) Chapter 460J (Pest Control Board)
  - (6) Chapter 462A (Pilotage)
  - (7) Chapter 471 (Board of Veterinary Examiners)
- (e) The following chapters are hereby repealed effective December 31, 1998:
  - (1) Chapter 373 (Commercial Employment Agencies)
  - (2) Chapter 441 (Cemetery and Funeral Trusts)
  - (3) Chapter 443B (Collection Agencies)
  - (4) Chapter 463 (Board of Private Detectives and Guards)
  - (5) Chapter 468 (Solicitors; Business of Taking Orders)
- (f) The following chapters are hereby repealed effective December 31, 1999:
  - (1) Chapter 436E (Board of Acupuncture)
  - (2) Chapter 442 (Board of Chiropractic Examiners)
  - (3) Chapter 444 (Contractors License Board)
  - (4) Chapter 448E (Board of Electricians and Plumbers)
  - (5) Chapter 452 (Board of Massage Therapy)
  - (6) Chapter 460 (Board of Osteopathic Examiners)
  - (7) Chapter 461J (Board of Physical Therapy)
  - (8) Chapter 464 (Professional Engineers, Architects, Surveyors and Landscape Architects)
  - (9) Chapter 465 (Board of Psychology)
  - (10) Chapter 468E (Speech Pathology and Audiology)
  - (11) Chapter 514E (Time Sharing Plans)
- (g) The following chapters are hereby repealed effective December 31, 2000:
  - (1) Chapter 439 (Board of Cosmetology)
  - (2) Chapter 448F (Electrologists)
  - (3) Chapter 454 (Mortgage Brokers and Solicitors)
  - (4) Chapter 454D (Real Estate Collection Servicing Agents)
  - (5) Chapter 466 (Board of Public Accountancy)
  - (6) Chapter 467 (Real Estate Commission)
- (h) The following chapter is hereby repealed effective December 31, 2001:
  - (1) Chapter 458 (Board of Dispensing Opticians)
- (i) The following chapter is hereby repealed effective December 31, 2004:
  - (1) Chapter 447 (Dental Hygienists)”

SECTION 2. Section 447-1, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If the applicant, in the opinion of the board, successfully passes the examination, the applicant shall be registered and receive a certificate of ability to practice as a dental hygienist in the State. Every registered dental hygienist, before entering practice, shall pay the board a registration fee. On or before December 31 of each odd-numbered year, every registered dental hygienist desiring to begin or continue to practice in the State shall pay to the board a fee for the biennial registration thereof. The failure, neglect, or refusal of any duly licensed dental hygienist to pay the biennial registration fee shall constitute a forfeiture of the license, but the license may be restored upon written application therefor and payment to the board of a restoration fee.

[Every dental hygienist practicing dental hygiene in the State shall furnish the board with the place of employment and the name of the dentist or institution by whom the dental hygienist is employed.]”

SECTION 3. Section 447-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Clinical dental hygiene may be practiced by a licensed dental hygienist. The practice of clinical dental hygiene is defined as the removal of hard and soft deposits and stains from the portion of the crown and root surfaces to the depth of the gingival sulcus, polishing natural and restored surfaces of teeth, the application of preventive chemical agents to the coronal surfaces of teeth, which chemical agents have been approved by the board of dental examiners, and the use of mouth washes as are approved by the board, but shall not include the performing of any repair work or the preparation thereof, or any other operation on the teeth or tissues of the mouth; provided that nothing herein shall prohibit a dental hygienist from using or applying topically any chemical agent which has been approved in writing by the department of health for any of the purposes set forth in part V of chapter 321, and other procedures delegated by the dentist in accordance with the rules of the board of dental examiners.

In addition, a licensed dental hygienist may administer intra-oral local anesthesia under the direct supervision of a dentist[.] upon providing documentary proof satisfactory to the board of certification in the administration of this procedure.”

SECTION 4. Section 448-5, Hawaii Revised Statutes, is amended to read as follows:

“§448-5 Board of examiners; appointment. The board of dental examiners shall consist of [eleven] twelve members, eight of whom shall be practicing dentists who have been engaged in the practice of dentistry for a period of five years preceding their several appointments, [one] two of whom shall be [a] practicing dental [hygienist,] hygienists, duly licensed under section 447-1, who [has] have been engaged in the practice of dental hygiene in the State<sup>1</sup> for a period of five years preceding appointment, and two of whom shall be public members. No member shall be in any way connected with, or interested financially in, any dental supply company. One member in the practice of dentistry shall be appointed from each of the counties of Hawaii, Maui, and Kauai and five members in the practice of dentistry shall be appointed from the city and county of Honolulu. As used in this chapter, “board” means the board of dental examiners.”



ACT 184

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

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

(Approved June 21, 1994.)

Note

- 1. "In the State" should be underscored.

ACT 184

H.B. NO. 3210

A Bill for an Act Relating to Nursing Home Administrators.

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

SECTION 1. Chapter 457B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§457B- Grounds for refusal to renew, reinstate, or restore, and for revocation, suspension, denial, or condition of licenses.** The board may refuse to renew, reinstate, or restore, or may revoke, suspend, deny, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant:

- (1) Altering in any way the physician's order for any patient's or resident's medical or therapeutic care unless the orders are clearly hazardous to the patient or resident, in which case the physician shall be immediately notified;
- (2) Defrauding any federal, state, county, or social agency, business, or individual in the operation of a nursing home;
- (3) Engaging in false, fraudulent, or deceptive advertising, or making false or improbable statements regarding the services of the nursing home; and
- (4) Submitting or filing with the board any notice, statement, or other document required under this chapter which is false or which contains any material misstatement of fact."

SECTION 2. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

**"§26H-4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1994:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 457 (Board of Nursing)
- (3) Chapter 457A (Nurse Aides)
- [(4) Chapter 457B (Board of Examiners of Nursing Home Administrators)]
- (5)] (4) Chapter 461 (Board of Pharmacy)
- [(6)] (5) Chapter 468L (Travel Agencies)

(b) The following chapters are hereby repealed effective December 31, 1995:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 440 (Boxing Commission)
  - (4) Chapter 445 Part V (Pawnbrokers)
  - (5) Chapter 448H (Elevator Mechanics Licensing Board)
  - (6) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (7) Chapter 453 (Board of Medical Examiners)
  - (8) Chapter 463E (Podiatry)
- (c) The following chapters and sections are hereby repealed effective December 31, 1996:
- (1) Sections 321-13 to 321-15 (laboratory directors, laboratory technologists, laboratory supervisors, laboratory technicians, and sanitarians)
  - (2) Chapter 321, Part XXX, (Tattoo Artists)
  - (3) Chapter 321, Part XXXI, (Midwives)
  - (4) Sections 431:10A-116(4) and 432:1-605 (Mammogram Screening)
  - (5) Chapter 448F (Electrologists)
  - (6) Chapter 466J (Board of Radiologic Technology)
- 1997:
- (d) The following chapters are hereby repealed effective December 31,
  - (1) Chapter 438 (Board of Barbers)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 455 (Board of Examiners in Naturopathy)
  - (4) Chapter 459 (Board of Examiners in Optometry)
  - (5) Chapter 460J (Pest Control Board)
  - (6) Chapter 462A (Pilotage)
  - (7) Chapter 471 (Board of Veterinary Examiners)
- (e) The following chapters are hereby repealed effective December 31,
- 1998:
- (1) Chapter 373 (Commercial Employment Agencies)
  - (2) Chapter 441 (Cemetery and Funeral Trusts)
  - (3) Chapter 443B (Collection Agencies)
  - (4) Chapter 463 (Board of Private Detectives and Guards)
  - (5) Chapter 468 (Solicitors; Business of Taking Orders)
- (f) The following chapters are hereby repealed effective December 31,
- 1999:
- (1) Chapter 436E (Board of Acupuncture)
  - (2) Chapter 442 (Board of Chiropractic Examiners)
  - (3) Chapter 444 (Contractors License Board)
  - (4) Chapter 448E (Board of Electricians and Plumbers)
  - (5) Chapter 452 (Board of Massage Therapy)
  - (6) Chapter 460 (Board of Osteopathic Examiners)
  - (7) Chapter 461J (Board of Physical Therapy)
  - (8) Chapter 464 (Professional Engineers, Architects, Surveyors and Landscape Architects)
  - (9) Chapter 465 (Board of Psychology)
  - (10) Chapter 468E (Speech Pathology and Audiology)
  - (11) Chapter 514E (Time Sharing Plans)
- (g) The following chapters are hereby repealed effective December 31,
- 2000:
- (1) Chapter 439 (Board of Cosmetology)
  - (2) Chapter 448F (Electrologists)
  - (3) Chapter 454 (Mortgage Brokers and Solicitors)

- (4) Chapter 454D (Real Estate Collection Servicing Agents)
- (5) Chapter 466 (Board of Public Accountancy)
- (6) Chapter 467 (Real Estate Commission)
- (h) The following chapter is hereby repealed effective December 31, 2001:
  - (1) Chapter 458 (Board of Dispensing Opticians)
- (i) The following chapter is hereby repealed effective December 31, 2004:
  - (1) Chapter 457B (Board of Examiners of Nursing Home Administrators)

SECTION 3. Section 457B-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Nursing home” means any nursing facility licensed by the department of health.”

SECTION 4. Section 457B-3.1, Hawaii Revised Statutes, is amended to read as follows:

**“§457B-3.1 Conditions concerning qualifications for licensure examination.** [(a) The rules of the board regarding the experience required of an applicant for licensure shall provide that:

- (1) A master of public health, master of business administration or a master of hospital administration degree, with a specialization in health services administration from an accredited institution of higher education shall be substitutable for one year of practical experience required of an applicant; and
- (2) One year of administrative experience in a health related area shall be accepted as equivalent to any requirement for one year of administrative experience in nursing home administration.

(b) The rules of the board regarding the education required of an applicant for licensure shall:

- (1) Require a baccalaureate degree from an accredited institution of higher education; provided that the board shall seek the advice of the University of Hawaii, office of admissions, regarding the college or university’s accreditation, and that the board shall approve any degree recognized by the University of Hawaii.
- (2) The board may exempt an applicant from completing the currently approved nursing home administrator’s correspondence course if the board determines that the applicant’s baccalaureate or post-baccalaureate formal education has imparted the knowledge and skills taught in the course.
- (3) The board may exempt an applicant from the requirements of paragraph (1) if the board determines that:
  - (A) Within the ten years immediately preceding the application, the applicant has served for at least eight years at the level of an assistant administrator (or its functional equivalent) in a nursing home; and
  - (B) At least five administrators currently licensed under this chapter recommend in writing to the board that the applicant be allowed to sit for the licensing examination.

(c) The board, as qualifications for taking the licensure examination, shall not require an applicant to furnish evidence of absence of physical or mental

impairments.] The board shall adopt rules setting minimum educational, training, and experience qualifications that must be satisfied before an applicant is allowed to sit for the licensing examination.”

SECTION 5. Section 457B-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board shall consist of seven members who shall serve for a term of four years. No member shall be appointed to more than two full consecutive terms. The board shall be composed of [persons] at least one public member, and<sup>1</sup> members representing professions and institutions concerned with the care and treatment of chronically ill or infirm elder patients, including but not limited to doctors, skilled nurses, hospital administrators, long term care facility administrators, physical therapists, occupational therapists, nutritionists, and gerontological social workers; provided that no more than three members shall be nursing home administrators.”

SECTION 6. No term of any member of the board of examiners of nursing home administrators that has not expired as of the effective date of this Act shall be affected by the inclusion of public members to the board. The governor shall appoint to the board one or more public members upon the next expiration of one or more current members’ terms.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

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

(Approved June 21, 1994.)

#### Notes

1. “And” should be underscored.
2. Edited pursuant to HRS §23G-16.5.

## ACT 185

H.B. NO. 3211

A Bill for an Act Relating to Nurse Aides.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The following chapters are hereby repealed effective December 31, 1994:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 457 (Board of Nursing)
- [(3) Chapter 457A (Nurse Aides)
- (4)] (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- [(5)] (4) Chapter 461 (Board of Pharmacy)
- [(6)] (5) Chapter 468L (Travel Agencies)”

SECTION 2. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

2000: “(g) The following chapters are hereby repealed effective December 31,

- (1) Chapter 439 (Board of Cosmetology)
- (2) Chapter 448F (Electrologists)
- (3) Chapter 454 (Mortgage Brokers and Solicitors)
- (4) Chapter 454D (Real Estate Collection Servicing Agents)
- (5) Chapter 466 (Board of Public Accountancy)
- (6) Chapter 467 (Real Estate Commission)
- (7) Chapter 457A (Nurse Aides)”

SECTION 3. Chapter 457A, Hawaii Revised Statutes, is amended:

1. By amending section 457A-1 to read as follows:

“[[§457A-1]] Findings and purpose. (a) The legislature recognizes that 42 United States Code §1395i-3 and §1396R [requires] require nurse aides working in nursing facilities participating in medicare and medicaid programs to be certified. This chapter implements [the provisions of] 42 United States Code §1395i-3 and §1396R with respect to [establishing]:

- (1) Establishing the State’s regulatory scheme for certifying nurse aides[.];
- (2) Defining the scope of regulation;
- (3) Establishing standards for certification and biennial recertification;  
and
- (4) Establishing an interagency agreement between the state agencies responsible for various aspects of the program.

(b) As used in this chapter, “nurse aide” means a person who performs a variety of duties relating to patients and patient care under the supervision of a nurse, including but not limited to assisting patients in all activities of daily living such as serving and collecting food trays, and helping patients get out of bed, bathe, and dress. A nurse aide may also assist a nurse by changing bed linens, delivering messages, and sterilizing instruments.”

2. By amending section 457A-2 to read as follows:

“[[§457A-2]] Implementation. The director of commerce and consumer affairs shall implement the provisions of 42 United States Code §1395i-3 and §1396R as [it relates] they relate only to establishing [the]:

- (1) The minimum requirements and standards necessary for certification as a nurse aide[, examination];
- (2) Examination requirements, [maintenance] including the passing score;
- (3) Maintenance requirements for continued certification[, and implementation] on a biennial basis; and
- (4) Implementation of a nurse aide registry.”

3. By amending section 457A-3 to read as follows:

“[[§457A-3]] Power of director. (a) The director, in accordance with [the provisions of] chapters 91 and 92, shall adopt [such] rules [as] that may be necessary to implement the provisions of 42 United States Code §1395i-3 and §1396R, as well as the federal regulations adopted pursuant thereto, as [it relates] they relate only to establishing [the]:

- (1) The minimum requirements necessary for certification as a nurse aide[, examination];
- (2) Examination requirements, [maintenance] including the passing score and provisions for contesting examination results;
- (3) Maintenance requirements for continued certification[.]; and [implementation]
- (4) Implementation and maintenance of a nurse aide registry.

(b) The director shall issue certificates to qualified nurse aides and shall be responsible for maintenance of an up-to-date nurse aide registry which shall include the names of certified nurse aides, their places of employment, and disciplinary actions. Disciplinary actions shall be limited to the placement of substantiated findings from the department of health into the nurse aide registry within ten working days of court settlement."

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

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

(Approved June 21, 1994.)

## ACT 186

H.B. NO. 3300

A Bill for an Act Relating to the Hawaii Public Procurement Code.

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

SECTION 1. Act 8, Special Session Laws of Hawaii 1993, is amended by adding three new parts to the chapter established in section 2 of the Act to read as follows:

### "PART X. PREFERENCES

§ -1001 **Definitions.** As used in this part, unless the context clearly requires otherwise:

"Hawaii products" means products that are mined, excavated, produced, manufactured, raised, or grown in the State where the input constitutes no less than twenty-five per cent of the manufactured cost; provided that:

- (1) Where the value of the input constitutes twenty-five per cent or more, but less than fifty per cent, of the manufactured cost, the product shall be classified as class I;
- (2) Where the value of the input constitutes fifty per cent or more, but less than seventy-five per cent, of the manufactured cost, the product shall be classified as class II; and
- (3) Where the value of the input constitutes seventy-five per cent or more of the manufactured cost, the product shall be classified as class III.

"Hawaii software development business" means any person, agency, corporation, or other business entity with its principal place of business or ancillary headquarters located in the State and that proposes to obtain eighty per cent of the labor for software development from persons domiciled in Hawaii.

“Office paper” includes computer paper, bond paper, ledger paper, xerographic copier paper, envelopes, and other related types of paper on which printing, writing, or drawing is intended.

“Person” means every individual, partnership, firm, society, unincorporated association, joint venture, group, hui, joint stock, company, corporation, trustee, personal representative, trust estate, decedent’s estate, trust, or other entities, whether the persons are doing business for themselves or in any agency or fiduciary capacity.

“Post-consumer material” means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item, and is a part of the broader category of recovered material.

“Printed material” includes business forms, stationery, business cards, brochures, reports, publications, advertising and promotional collateral, and other related materials, including reports, publications, and related materials commissioned as part of any professional services contract.

“Produced or manufactured” includes the processing, developing, and making of a thing into a new article with a distinct character and use through the application of input within the State including Hawaii products, labor, skill, or other services. “Produced or manufactured” does not include the mere assembling or putting together of non-Hawaii products or material.

“Products” include materials, manufactures, supplies, merchandise, goods, wares, products, and foodstuffs.

“Recovered material” means waste material and by-products that have been recovered or diverted from solid waste. “Recovered material” does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

“Software development” means any work related to feasibility studies, system requirements analysis, system design alternatives analysis, system external specifications, system internal specifications, programming, testing, debugging, or implementation for an electronic data processing system.

§ **-1002 Hawaii products.** (a) In any expenditure of public funds, a purchasing agency shall review all purchase specifications in a bid or proposal for purchase from the Hawaii products list where these products are available; provided that the products:

- (1) Meet the minimum specifications and the selling price f.o.b. jobsite;
- (2) Unloaded including applicable general excise tax and use tax does not exceed the lowest delivered price in Hawaii f.o.b. jobsite; and
- (3) Unloaded, including applicable general excise tax and use tax do not exceed the lowest delivered price of a similar non-Hawaii product by more than:
  - (A) Three per cent where class I Hawaii products are involved;
  - (B) Five per cent where class II Hawaii products are involved; or
  - (C) Ten per cent where class III Hawaii products are involved.

(b) Where a package bid or offer contains both Hawaii and non-Hawaii products, then for the purpose of selecting the lowest bid or purchase price only, the price bid or offered for a non-Hawaii product item shall be increased by adding thereto: three per cent, five per cent, or ten per cent where similar class I, class II, or class III Hawaii product items have been bid or offered by another party pursuant to this section. The lowest total bid or offer, taking the preferences into consideration, shall be awarded the contract unless the bid or offer provides

for additional award criteria. The contract amount of any contract awarded, however, shall be the amount of the bid or price offered, exclusive of the preferences.

(c) All persons submitting bids or offers based on non-Hawaii products to any purchasing agency shall designate in their bids which individual product is to be supplied as a non-Hawaii product. All bidders shall list the price of the non-Hawaii product in their bid.

(d) In all public works and any repair or maintenance contracts, a purchasing agency or any person employed by a purchasing agency, including architects and engineers, shall describe in all specifications, products, and their established classes listed in the Hawaii products list established under this section which may be used, where the products are available and meet the minimum specifications.

(e) The policy office shall adopt rules in accordance with chapter 91 for the establishment and administration of a Hawaii products list. The administrator of the state procurement office shall maintain and distribute copies of the list to the purchasing agencies of the various governmental agencies.

(f) This section shall not apply whenever its application will disqualify any governmental agency from receiving federal funds or aid.

(g) Any purchase made or any contract awarded or executed in violation of this section shall be void and no payment shall be made by any purchasing agency on account of the purchase or contract.

(h) Any person, or any officer or employee of any person, who violates this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both. In addition, any person who is awarded a contract or given an order for purchase as a result of misrepresentation in the person's bid or offer or makes a claim in the person's bid or offer that the person will purchase Hawaii products, but fails to do so:

- (1) Shall be fined the difference between the price the person would have paid for Hawaii products and the actual price; and
- (2) Shall not be awarded any contract or be given any order for purchase or be eligible for bidding until one year after the date of the payment of fines.

§ -1003 **Printing, binding, and stationery work.** (a) All printing, binding, and stationery work for the State or any county shall be performed within the State, including all preparatory work, presswork, bindery work, and any other production-related work, and all requests for bids or contracts for this work shall so stipulate; provided that whenever it is established that this work cannot be performed within the State or that the lowest price for which the work can be procured within the State exceeds the bid or charge of a mainland manufacturer of the item by fifteen per cent, the work or any part thereof so affected may be performed outside the State.

(b) No payment shall be made by the State or any county for printing, binding, or stationery work unless it appears that the work was done within the State or was authorized to be done outside the State pursuant to this section. In addition, any manufacturer violating a stipulation in a bid or contract that all work will be performed within the State shall be subject to a civil penalty in an amount not to exceed the bid or contract price to be collected by a civil action filed by the attorney general on behalf of the State.

(c) The policy office shall adopt rules to implement this section.

§ -1004 **Reciprocity.** (a) To ensure fair and open competition for Hawaii businesses engaged in contracting with other states, the chief procurement officer may impose a reciprocal preference against bidders from those states



which apply preferences. The amount of the reciprocal preference shall be equal to the amount by which the non-resident preference exceeds any preference applied by this State.

In determining whether a bidder qualifies as a resident bidder, the definition used by the other state in applying a preference shall apply.

(b) The policy office shall adopt rules to implement this section.

(c) This section shall not apply to any transaction if the provisions of the section conflict with any federal laws.

§ **-1005 Recycled products.** (a) To encourage the use of recycled products, contracts shall be awarded to the lowest responsible and responsive bidders, with preference being given to the products containing recycled material. The policy office shall adopt rules in accordance with chapter 91 governing preference for recycled products. The rules shall establish percentages of preference and the method of determining the contents of recycled material to qualify various products for preference.

(b) The state procurement office, with the assistance of the office of solid waste management in the department of health as provided in section 342G-42, shall develop a recycled product procurement program that shall require state purchasing agencies and urge county purchasing agencies to:

- (1) Apply preference to the purchase of products with recycled content before purchasing products without any recycled content;
- (2) Be consistent with applicable federal specification standards incorporated in Executive Order No. 12873, signed by the President of the United States on October 20, 1993, and any subsequent amendments to that order; and
- (3) Ensure, to the maximum extent economically feasible, the purchase of materials that may be recycled or reused when discarded, and to avoid the purchase of products deemed environmentally harmful.

(c) In addition to the requirements for the purchase of office paper and printed material under subsection (e), and when appropriate, purchase specifications shall include, but not be limited to, paper, paper products, glass and glass by-products, plastic products, mulch and soil amendments, tires, batteries, oil, paving materials and base, subbase, and pervious backfill materials. Paving materials to be considered shall include, but are not limited to, asphalt, tires, crushed concrete for base, subbase, and paving materials. The standards and specifications shall provide for the use of recycled materials and shall not reduce the quality standards for highway and road construction.

(d) The chief procurement officers shall periodically review their specifications to determine whether discrimination against procured goods with recycled contents exists and shall revise these specifications to eliminate any such discrimination.

(e) When purchasing office paper and printed material, state purchasing agencies shall, and county purchasing agencies are urged to, purchase only office paper and printed material with recycled content, except when statutory, regulatory, or contractual requirements preclude the purchase of office paper or printed material with recycled contents of the same type and quantity as the office paper or printed material without recycled content.

§ **-1006 Software development businesses.** (a) In any expenditure of public funds for software development, the use of Hawaii software development businesses shall be preferred. Where a package bid or response to a request for proposal contains both Hawaii and non-Hawaii software development businesses,

then for the purpose of selecting the lowest bid or purchase price only, the bid or offer by a non-Hawaii software developmental center shall be increased by a preference percentage pursuant to rules adopted in accordance with chapter 91.

(b) The policy office shall adopt rules to implement this section.

(c) This section shall not apply when precluded by federal requirements for competitive bidding.

## PART XI. FEDERAL AND STATE SURPLUS PROPERTY

§ -1101 **Definitions.** As used in this part, unless the context clearly requires otherwise:

“Personal property” means all tangible goods, including equipment, materials and supplies, except land, buildings, and improvement to the land.

“Surplus personal property” means any personal property that no longer has any use to this State or personal property acquired from the United States government. “Surplus personal property” includes obsolete, scrap, and excess personal property that has completed its useful life cycle.

§ -1102 **State agency for surplus property.** The state procurement office shall be the state agency for federal and state surplus personal property unless otherwise specified in this chapter or rules adopted pursuant to chapter 91.

The administrator of the state procurement office shall appoint and prescribe the duties of a surplus property director and other personnel pursuant to chapters 76, 77, and this chapter.

§ -1103 **Authority and duties.** The state procurement office may:

- (1) Acquire from the United States under and in conformance with section 203(j) of the Federal Property and Administration Services Act of 1949, as amended, hereinafter referred to as the “Federal Act”, any personal property under the control of any executive agency of the United States which has been determined to be surplus property under the Federal Act, warehouse the property, and distribute the property within the State to eligible recipients, as set forth in the Federal Act;
- (2) Receive applications from eligible health and educational institutions for the acquisition of federal and state surplus personal property, investigate, review, make recommendations and otherwise assist, supervise, and direct the processing of these applications for acquisition of federal personal property of the United States under section 203(k) of the Federal Act and state personal property under rules adopted by the policy office;
- (3) Appoint advisory boards or committees;
- (4) Take any action including making certifications, expenditures, contracts, agreements, and other undertakings, necessary in connection with the disposal of personal property hereunder;
- (5) Act as a clearinghouse of information for the eligible recipients referred to in paragraph (1) and other public and private nonprofit institutions, organizations, and agencies eligible to acquire federal or state surplus personal property; locate personal property available for acquisition from the United States or state agencies; ascertain the terms and conditions under which the property may be obtained; receive requests from eligible recipients, institutions, organizations, agencies, and counties and transmit to them all available information

in reference to the property; and assist eligible recipients, institutions, organizations, agencies, and counties in every way possible in the consummation of acquisitions or transactions hereunder;

- (6) Cooperate to the fullest extent, consistent with the provisions of the Federal Act, with the departments or agencies of the United States; file a state plan of operation, operate in accordance therewith, and take any action that may be necessary to meet the minimum standards prescribed in the Federal Act; make any reports that the United States may from time to time require; and comply with the laws and regulations of the United States governing the allocation, transfer, use, or accounting for property donated or to be donated to the State;
- (7) Purchase from any other state the services of the agency responsible for the distribution of surplus property and sell to any other state the services of the state procurement office to ensure and promote the effective administration of this chapter and of the surplus property program. The purchase or sale of services shall be made on a fee-for-service or other equitable and reasonable basis; provided that the fee or other basis of payment for services purchased or sold shall be computed to include the costs of salaries, travel, supplies, and equipment and any other item properly related to the cost of the service; and
- (8) Make certifications, take action, make expenditures, and enter into contracts and undertakings for and in the name of the State (including cooperative agreements with any federal agencies providing for utilization by and exchange between them of the property, facilities, personnel, and services of each by the other), require reports and make investigations that the agency may deem necessary or proper for the administration of this part, or that may be required by law or regulation of the United States in connection with the disposal of real property and the receipt, warehousing, and distribution of personal property received by the agency from the United States.

§ **-1104 Delegation of authority; bond.** The administrator of the state procurement office may:

- (1) Delegate to any employee any power and authority deemed reasonable and proper for the effective administration of this part; and
- (2) Bond any employee of the agency handling money, signing checks, or receiving or distributing property from the United States or state agencies under authority of this part.

§ **-1105 Authorized donee representatives.** Any other law to the contrary notwithstanding, the governing board, or in case there is none, the chief procurement officer or the head of a purchasing agency, or their respective designees, by written order or resolution, may confer upon any officer or employee the continuing authority to secure the transfer, to the state procurement office or the purchasing agency, of surplus property under this part through the state agency for surplus property under section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, and rules adopted by the policy office, and to obligate the State or county and its funds to the extent necessary to comply with the terms and conditions of the transfers. The authority conferred upon the officer or employee by the order or resolution shall remain in effect

until the order or resolution is duly revoked and written notice of the revocation is received by the state agency for surplus property.

§ **-1106 Transfer charges.** Any charges or fees assessed by the surplus property director shall be limited to those reasonably related to the costs of care and handling with respect to the acquisition, receipt, warehousing, distribution, or transfer. The charges and fees shall be limited to the reasonable administrative costs the surplus property director incurred in effecting transfer.

§ **-1107 Revolving fund.** There shall be in the state treasury a surplus federal property revolving fund, which shall be maintained in an amount adequate to defray the costs of procuring, storing, handling, and disposing of surplus property donated to the State under any federal act or rules adopted by the policy office making surplus federal and state property available.

## PART XII. INVENTORY MANAGEMENT; STATE AND COUNTY PROPERTY

§ **-1201 Definitions.** As used in this part, unless the context clearly requires otherwise:

“Administrator of the state procurement office” means the chief procurement officer for the governmental bodies of the executive branch of the State, other than the University of Hawaii, department of education, the several counties, and those governmental bodies administratively attached thereto.

“Excess property” means any property which has a remaining useful life but which is no longer required by the using agency in possession of the property.

“Expendable property” means all property other than nonexpendable property.

“Nonexpendable property” means all property having a unit cost and useful life which is set by rules adopted by the policy office.

“Property” means all goods, including equipment, materials, supplies, land, buildings, and other improvements to the land, also non-tangible items such as patents, inventions, and copyrights.

“Surplus property” means any property that no longer has any use to the State. “Surplus property” includes obsolete, scrap, and nonexpendable property that has completed its useful life cycle.

§ **-1202 Rules.** The policy office shall adopt rules in accordance with chapter 91 governing:

- (1) The management of properties during their entire life cycle;
- (2) The classes of property, whether expendable or nonexpendable;
- (3) The action to be taken in case of lost, stolen, damaged, unserviceable, or unsuitable property;
- (4) The sale, lease, trade-in, or disposal of surplus property by public auction, competitive sealed bidding, or other appropriate method designated by rules; provided that no employee of the owning or disposing agency shall be entitled to purchase this property; and
- (5) The transfer of excess property.

§ **-1203 Administrator of the state procurement office; duties.** The administrator of the state procurement office shall:

- (1) Perform a periodic review of the inventory management system of all governmental bodies;

- (2) Enforce rules adopted by the policy office governing the management of state property;
- (3) Assist, advise, and guide governmental bodies in matters relating to the inventory management of state property; and
- (4) Establish, manage, and maintain a centralized property inventory record file for each department, board, commission, or office of the State having the care, custody, or control of any state property, other than the University of Hawaii, the department of education, the several counties, and those governmental bodies administratively attached thereto, unless otherwise specified in this chapter or in rules adopted pursuant to chapter 91.

§ **-1204 Others' responsibilities.** The head of the department, or the head of any board, commission, agency, bureau, or office of the State shall be responsible for the accountability, protection, maintenance, and proper use of all state property pertaining to their office or department, whether they issue receipts for the same or not, and shall not transfer their responsibility to a successor during short periods or absence unless with the written consent of the governor. Shortages occurring during the administration of one person shall not be the responsibility of the person's successor. The new officer shall be responsible only for the property the office actually receives or for which the officer issues a receipt.

§ **-1205 Internal control.** The head of the department, or the head of any board, commission, agency, bureau, or office of the State and any county having the care, custody, or control of any state property is responsible for maintaining an adequate system of internal control to ensure the accountability, safe-keeping, maintenance, and proper use of state property and verify that the internal control system continues to function effectively as designed.

§ **-1206 Annual inventory reporting by state officers.** The chief procurement officers for their respective jurisdictions, the administrative heads of the executive departments, and all other persons, offices, and boards of a public character which are not by law under the control and direction of any of the officers specifically named in this section, before September 16 of each year, shall prepare and file with the administrator of the state procurement office an annual inventory return of all state property in the possession, custody, control, or use of the officer making the return, or of the department or office of the government over which the officer presides. Any officer, agent, or employee serving in a department or under a returning officer shall file an annual inventory return to the department head or the returning officer. The officer making the return shall similarly file a copy with the administrator of the state procurement office. The annual inventory return shall contain the following:

- (1) A summary and list by detailed item description and carrying value of all nonexpendable state property on hand as of July 1 of the year for which the return is made;
- (2) A summary and list by detailed item description and carrying value of all nonexpendable state property acquired and disposed of during the year elapsed since the return made as of the preceding July 1;
- (3) Summary dollar values of expendable property on hand as of July 1 of the year for which the return is made; and
- (4) A sworn statement certifying the information on the return, property listings, and carrying values provided with the return to be full, true,

and correct to the best knowledge, information, and belief of the officer making the return.

§ **-1207 Annual inventory reporting by county mayors to administrator of the state procurement office.** Each county mayor, before September 16 of each year, shall prepare and file with the administrator of the state procurement office an annual inventory return of all state property in the use, custody, or possession for the time being of the county or any of its officers. The annual inventory return shall contain the following:

- (1) A summary and list by detailed item description and carrying value of all nonexpendable state property on hand as of July 1 of the year for which the return is made;
- (2) A summary and list by detailed item description and carrying value of all nonexpendable state property disposed of during the year elapsed since the return made as of the preceding July 1; and
- (3) A sworn statement certifying the information on the return, property listings, and carrying values provided with the return to be full, true, and correct to the best knowledge, information, and belief of the officer making the return.

§ **-1208 Annual inventory reporting by county officers to council.** Every officer, head of department, agent, employee, and other person in the employ of the county, having in their custody or under their control or using property belonging to the county, each year within forty-five days following the close of the county's fiscal year, shall prepare and file with the council of the county an annual inventory return of all county property in the possession, custody, control, or use of the officer, head of department, agent, employee, or other person making the annual inventory return, or of the offices or departments over which the officer presides. The annual inventory return shall contain the following:

- (1) A summary and list by detailed item description and carrying value of all county property on hand as of the close of the county's fiscal year for which the return is made;
- (2) A summary and list by detailed item description and carrying value of all county property acquired and disposed of during the year elapsed since the return made as of the preceding close of the fiscal year; and
- (3) A sworn statement certifying the information on the return, property listings, and carrying values provided with the return to be full, true, and correct to the best knowledge, information, and belief of the officer making the return.

§ **-1209 Authority to withhold salary.** The administrator of the state procurement office and the director of finance of each county shall ascertain if inventories have been filed as required by sections -1206 and -1208 respectively. If any officer, head of department, agent, employee, or other person fails to file the required inventory within the time prescribed, the administrator of the state procurement office or director shall withhold the salary or wage due the officer, head of department, agent, employee, or other person until the inventory is filed; provided that at the discretion of administrator of the state procurement office or director the delay in filing the required inventory return within the time prescribed was for good cause.

§ **-1210 Penalty; jurisdiction.** Any officer, member of a public board, assessor, or other person who fails to perform any of the duties imposed upon the person by this part shall be fined no more than \$500 or imprisoned not more than six months. District judges shall have jurisdiction to hear and determine all cases of alleged violations of this part committed within the circuit for which the judge was appointed.

§ **-1211 Forms for annual inventory return.** The administrator of the state procurement office shall prepare and print a general form upon which the inventories required under sections -1206 and -1207 shall be made, and before June 1 of each year, shall mail to each officer required under sections -1206 and -1207 to file an annual inventory return, as many forms as necessary to enable the officer to make a proper return. The administrator of the state procurement office, at the same time, shall call to the attention of the officer, in writing, the requirements of this part.

§ **-1212 Duties of the State and county.** (a) The administrator of the state procurement office shall examine each inventory return filed as required by sections -1206 and -1207 and the director of finance of each county shall examine each inventory return filed as required by section -1208, and they shall add, if any, items of property which should have been included with their full cash value, correct and alter the valuations as may be required by truth and accuracy, and enter in one or more books to be kept for the purpose and to be available at all times for inspection by any taxpayer, all of the property and valuations named in the inventories, as added to, revised, corrected, and classified for convenience.

(b) The administrator of the state procurement office or county director of finance shall charge the amounts of the inventories to proper accounts on the general ledgers of the State or county so that the values of the properties shall be shown and appear at all times in the balance sheet of the books of the State or county.

(c) The director of taxation at all times shall advise or assist the administrator of the state procurement office in the valuation of all state property.

(d) The county engineers shall advise or assist the director of finance of their respective counties as to the valuation of the property belonging to the county.

§ **-1213 Sale of produce, etc.; disposition of proceeds; exceptions.** Except as otherwise provided by law or rules adopted by the governor, the sale by any governmental office, department, board, establishment, institution, or agency (hereafter referred to as "agency") of domestic animals such as hogs, poultry, etc.; of the produce of animal husbandry; of fruits, vegetables, and other agricultural produce; of manufactured articles; or the like (hereafter referred to as "products") where the raising, production, or manufacture of the same is a part of the usual or authorized activities of the agency, may be made by the agency in a manner to be determined by the head of the agency. The proceeds of the sales, where not otherwise provided by law, shall be paid into the general fund as state realizations. If any of the products are sold from one agency to any other agency, a reasonable sale price may be paid to the selling agency by the purchasing agency and credited to the current expense appropriation of the selling agency, subject to re-expenditure during the fiscal or other period in which the current expense appropriation is available, and any unexpended balance shall lapse at the end of the period. This section shall not apply to public school activities, such as the sale of food in public school cafeterias, the proceeds of which are not considered as

public funds payable into the treasury of the State, nor shall the same apply to activities of the University of Hawaii. Nothing in this section shall be deemed to prohibit a transfer from one agency to another of the products without charge, if so ordered by the selling agency.

§ -1214 Proceeds. Except as otherwise provided in section -1213 or by any other law, all moneys received from the sale of any state property by any office, department, board, establishment, institution, or other agency shall be deposited with the director of finance to the credit of the general fund where the operation of the agency is financed from the general fund; provided that where any state property has been purchased with moneys in a special fund, the proceeds of the sale shall be paid into or credited to the special fund. In any case of doubt as to the application of any such proceeds, the administrator of the state procurement office shall determine the fund or appropriation to which the proceeds shall be credited pursuant to this section, and the administrator's decision shall be final."

SECTION 2. Section 26-6, Hawaii Revised Statutes, is amended to read as follows:

"§26-6 Department of accounting and general services. (a) The department of accounting and general services shall be headed by a single executive to be known as the comptroller.

(b) The department shall preaudit and conduct after-the-fact audits of the financial accounts of all state departments to determine the legality of expenditures and the accuracy of accounts; report to the governor and to each regular session of the legislature as to the finances of each department of the State; [manage the inventory, equipment, surplus property, insurance, and centralized purchasing programs of the State;] administer the state risk management program; establish and manage motor pools; manage the preservation and disposal of all records of the State; undertake the program of centralized engineering and office leasing services, including operation and maintenance of public buildings, for departments of the State; undertake the functions of the [territorial or] state surveyor; and establish, analyze, and enforce accounting and internal control systems.

(c) The King Kamehameha celebration commission [is] shall be placed within the department of accounting and general services for administrative purposes. The functions, duties, and powers, subject to the administrative control of the comptroller, and the composition of the commission shall be as heretofore provided by law.

(d) The functions and authority heretofore exercised by the comptroller, board of commissioners of public archives, the archivist, the disposal committee, and the insurance management, surplus property management, and central purchasing functions of the bureau of the budget and the nonhighway functions of the department of public works as heretofore constituted are transferred to the department of accounting and general services established by this chapter."

SECTION 3. Section 102-6, Hawaii Revised Statutes, is amended to read as follows:

"§102-6 Deposits of legal tender, etc., to accompany bid. (a) All bids shall be accompanied by a deposit of legal tender or by a certificate of deposit, share certificate, cashier's check, treasurer's check, teller's check, or official check drawn by, or a certified check accepted by, a bank, savings institution, or



credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, in a sum not less than five per cent of the amount bid, payable at sight or unconditionally assigned to the officer advertising for tenders; provided that when the amount bid exceeds \$50,000, the deposit shall be in a sum not less than \$2,500 plus two per cent of the amount in excess of \$50,000.

If the bid deposit is in the form of a surety bond, it shall be issued in accordance with subsection (b).

(b) 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 Hawaii corporation, as surety,] bonding company listed in the United States Treasury List; provided that the bond furnished by any surety listed shall not exceed the bonding capacity rating of that surety on the Treasury List; 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 any further time as the officer may allow, if the bidder is awarded the contract.”

SECTION 4. Section 103D-202, Hawaii Revised Statutes, is amended to read as follows:

“**§103D-202 Authority and duties of the policy office.** Except as otherwise provided in this chapter, the policy office shall have the authority and responsibility to adopt rules, consistent with this chapter, governing the procurement, management, control, and disposal of any and all goods, services, and construction. All rules shall be adopted in accordance with chapter 91[.]; provided that the policy office shall have the power to issue interim rules by procurement directives, which shall be exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91. The interim rules shall be effective for not more than eighteen months. The policy office shall consider and decide matters of policy within the scope of this chapter including those referred to it by a chief procurement officer. The policy office shall have the power to audit and monitor the implementation of its rules and the requirements of this chapter, but shall not exercise authority over the award or administration of any particular contract, or over any dispute, claim, or litigation pertaining thereto.”

SECTION 5. Section 342G-42, Hawaii Revised Statutes, is amended to read as follows:

“**[§342G-42] [Agency] Office responsibilities for recycled products procurement.** [(a) The department of accounting and general services, with the assistance of the office, shall develop the recycled product procurement program.] The office, in coordination with the [department of accounting and general services,] state procurement office, shall ensure that all state [agencies] and county purchasing agencies are provided with the information and technical assistance necessary to [establish recycling] promote the procurement [programs. The department of accounting and general services shall periodically review its specifications to determine whether discrimination against procured] of goods with recycled-content [exists and shall revise these specifications to eliminate any discrimination.

(b) Pursuant to section 103-24.5, the comptroller shall establish rules pursuant to chapter 91 governing procurement preference for recycled products.

(c) The department of accounting and general services and other state agencies, where necessitated by technical expertise, shall review and establish purchase specifications to aid in the procurement of recycled goods. Where appropriate, purchase specifications shall include, but not be limited to, paper, paper products, plastics, sewage sludge, compost, tires, batteries, oil, paving materials and base, subbase, and pervious backfill materials. Paving materials to be considered shall include, but are not limited to, asphalt, tires, crushed concrete for base, subbase and paving materials. The standards and specifications shall provide for the use of recycled materials and shall not reduce the quality standards for highway and road construction].”

SECTION 6. Act 8, Special Session Laws of Hawaii 1993, is amended by amending subsection (b) of section -102, of the chapter established in section 2 of the Act, to read as follows:

“(b) This chapter shall apply to every expenditure of public funds irrespective of their source by a governmental body as defined herein, under any contract; provided that the expenditure of federal assistance moneys shall be in accordance with federal requirements. This chapter shall not apply to:

- (1) Grants, subsidies, or purchases of service made pursuant to chapter 42D;
- (2) Employment agreements or collective bargaining agreements; [and]
- (3) [Grants or contracts between the State and counties or other governments except as provided by part VIII.] The purchase of goods, services, or construction from any other governmental body, other state governments, or the federal government, other than the University of Hawaii bookstores;
- (4) Permanent settlements, subsidies, or other claims that must be paid by law;
- (5) Contracts for expert witnesses for potential and actual litigation of legal matters involving the State, its agencies, and its officers and employees, including administrative quasi-judicial proceedings;
- (6) Works of art for museum and public display;
- (7) Published books, maps, periodicals, and technical pamphlets;
- (8) Meats and foodstuffs for the Kalaupapa settlement; and
- (9) Goods purchased by the State for commercial resale to the public.

Nothing in this chapter or rules adopted hereunder shall prevent any governmental body from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.”

SECTION 7. Act 8, Special Session Laws of Hawaii 1993, is amended by amending the definition of “professional services” of section -104, of the chapter established in section 2 of the Act, to read as follows:

““Professional services” means those services within the scope of the practice of architecture, landscape architecture, professional engineering, land surveying, real property appraisal, law, medicine, accounting, dentistry, or any other practice defined as professional by the laws of this State[.] or the professional and scientific occupation series contained in the United States Office of Personnel Management’s Qualifications Standards Handbook.”

SECTION 8. Act 8, Special Session Laws of Hawaii 1993, is amended by amending section -203, of the chapter established in section 2 of the Act, to read as follows:

“§ -203 Chief procurement officers. (a) The chief procurement officer for each of the following state entities [and the several counties] shall be:

- (1) The judiciary—the administrative director of the courts;
- (2) The senate—the president of the senate;
- (3) The house of representatives—the speaker of the house of representatives;
- (4) The office of Hawaiian affairs—its board of trustees;
- [(5) The several counties—the respective finance directors of the several counties;
- (6)] (5) The University of Hawaii—the president of the University of Hawaii;
- [(7)] (6) The department of education—the superintendent of education; and
- [(8)] (7) The remaining departments of the executive branch of the State and all governmental bodies administratively attached to them—the administrator of the procurement office of the department of accounting and general services.

(b) The chief procurement officers for each of the several counties shall be:

- (1) The executive branch—the respective finance directors of the several counties; and
- (2) The legislative branch—the respective chairpersons of the councils of the several counties;

provided that the chief procurement officers designated under paragraphs (1) and (2) shall not exercise their powers or duties over contracting in a manner contrary to the respective county’s charter, ordinances, or rules adopted in accordance with chapter 91.

(c) For purposes of applying this chapter to the judiciary, houses of the legislature, office of Hawaiian affairs, department of education, University of Hawaii, remaining departments of the executive branch and all governmental bodies administratively attached to them, and the several counties, unless otherwise expressly provided, “State” shall mean “judiciary,” “state senate,” “state house of representatives,” “office of Hawaiian affairs,” “department of education,” “University of Hawaii,” “executive branch,” and “county,” respectively.”

SECTION 9. Act 8, Special Session Laws of Hawaii 1993, is amended by amending subsection (b) of section -302, of the chapter established in section 2 of the Act, to read as follows:

“(b) An invitation for bids shall be issued[,] and shall include a purchase description and all contractual terms and conditions applicable to the procurement. If the invitation for bids is for construction, it shall specify that all bids include the name of each person or firm to be engaged by the bidder as a joint contractor or subcontractor in the performance of the contract and the nature and scope of the work to be performed by each. Construction bids [which] that do not comply with this requirement may be accepted if the chief procurement officer or rules of the policy office conclude that acceptance is in the best interest of the public[,] and the value of the work to be performed by the joint contractor or subcontractor is equal to or less than one per cent of the total bid amount.”

SECTION 10. Act 8, Special Session Laws of Hawaii 1993, is amended by amending section -305, of the chapter established in section 2 of the Act, to read as follows:

“§ -305 **Small purchases.** Any procurement of

(1) Less than \$10,000 for [supplies] goods or services; or

(2) Less than \$25,000 for construction;

may be made in accordance with procedures set forth in rules adopted by the policy office [which] that are designed to ensure administrative simplicity and as much competition as is practicable; provided that multiple expenditures shall not be created at the inception of a transaction or project so as to evade the requirements of this chapter; and provided further that procurement requirements shall not be artificially divided or parceled so as to constitute a small purchase under this section.”

SECTION 11. Act 8, Special Session Laws of Hawaii 1993, is amended by amending subsections (a) and (b) of section -323, of the chapter established in section 2 of the Act, to read as follows:

“(a) Unless the policy office determines otherwise by rules, bid security shall [only] be required only for construction contracts to be awarded pursuant to sections -302 and -303 and when the price of the contract is estimated by the procurement officer to exceed [\$100,000] \$25,000 or, if the contract is for goods or services, the purchasing agency secures the approval of the chief procurement officer. Bid security shall be a bond provided by a surety company authorized to do business in the State, or the equivalent in cash, or otherwise supplied in a form specified in rules.

(b) Bid security shall be in an amount equal to at least five per cent of the amount of the bid[, provided that when the amount bid exceeds \$50,000, the bid security shall be in a sum not less than \$2,500, plus two per cent of the amount in excess of \$50,000. Notwithstanding the foregoing, if the contract is for construction, then the amount of the bid security shall be in a sum not less than \$3,500, plus two per cent of the amount in excess of \$100,000].”

SECTION 12. Act 8, Special Session Laws of Hawaii 1993, is amended by amending the definition of “local public procurement unit” in section -801, of the chapter established in section 2 of the Act, to read as follows:

““Local public procurement unit” means any county of the State or public agency of any county, public authority, educational, health, or other institution, and to the extent provided by law, any other entity which expends public funds for the procurement of [supplies,] goods, services, and construction.”

SECTION 13. Act 8, Special Session Laws of Hawaii 1993, is amended by amending section -802, of the chapter established in section 2 of the Act, to read as follows:

“§ -802 **Cooperative purchasing authorized.** A public procurement unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of [supplies,] goods, services, or construction with one or more public procurement units [or], external procurement activities, or nonprofit private health and human services organizations pursuant to rules adopted by the policy office and an agreement entered into between the

ACT 186

participants. The cooperative purchasing may include, but [is] shall not be limited to, joint or multi-party contracts between public procurement units and open-ended state public procurement unit contracts which are made available to local public procurement units.”

SECTION 14. Act 8, Special Session Laws of Hawaii 1993, is amended by amending section -803, of the chapter established in section 2 of the Act, to read as follows:

“§ -803 **Sale, acquisition, or use of [supplies] goods by a public procurement unit.** Any public procurement unit may sell to, acquire from, or use any [supplies] goods belonging to another public procurement unit or external procurement activity independent of the requirements of [part] parts III and [the supply management provisions of chapter 106.] XII.”

SECTION 15. Act 8, Special Session Laws of Hawaii 1993, is amended by amending section -804, of the chapter established in section 2 of the Act, to read as follows:

“§ -804 **Cooperative use of [supplies] goods or services.** A public procurement unit may enter into an agreement, independent of the requirements of [part] parts III and [the supply management provisions of this chapter and the supply management provisions of chapter 106.] XII. with any other public procurement unit [or], external procurement activity, or nonprofit private health and human services organizations for the cooperative use of [supplies] goods or services under the terms agreed upon between the parties[.] pursuant to rules adopted by the policy office.”

SECTION 16. Act 8, Special Session Laws of Hawaii 1993, is amended by amending section -809, of the chapter established in section 2 of the Act, to read as follows:

“§ -809 **Review of procurement requirements.** [To the extent possible, the] The chief procurement officer may collect information concerning the type, cost, quality, and quantity of commonly used [supplies,] goods, services, or construction being procured or used by state public procurement units. The chief procurement officer may also collect this information from local public procurement units. The chief procurement officer may make available all such information to any public procurement unit upon request.”

SECTION 17. Act 8, Special Session Laws of Hawaii 1993, is amended by amending the definition of “small business” in section -901, of the chapter established in section 2 of the Act, to read as follows:

““Small business” means a United States business which is independently owned and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation. The policy office shall adopt rules establishing [a] more detailed criteria for defining small business, including the number of employees [and the dollar volume of business].”

SECTION 18. Act 8, Special Session Laws of Hawaii 1993, is amended by amending section 15 to read as follows:

“SECTION 15. Section 128-10, Hawaii Revised Statutes, is amended to read as follows:

“§128-10 **Other powers.** The governor further, [may] irrespective of the existence of a civil defense emergency period[:], may:

- (1) [Cooperation with federal agencies in civil defense matters, etc.] Cooperate with the President and the heads of the armed forces, and the civil defense agency of the United States, and with the officers and agencies of other states in matters pertaining to the civil defense of the State and nation and the incidents thereof, and take any measures which the governor may consider proper to carry into effect any request of the President or the appropriate federal officers and agencies, for any action looking to civil defense[.];
- (2) [Lend-lease.] Lease, lend, or otherwise furnish, on such terms and conditions as the governor may consider necessary to promote the public welfare and protect the interest of the State, any real or personal property of the state government or its political subdivisions, to the President, the heads of the armed forces, or to the civil defense agency of the United States[.];
- (3) [Agreements with the federal government and other states.] On behalf of the State enter into mutual aid agreements or compacts with the federal government and with other states. The agreements or compacts shall be limited to civil defense. It may be provided in an interstate compact, and the governor with the advice and consent of the political subdivisions included within the scope of the compact, may agree on behalf of the State that:
  - (A) Each party state shall extend to the civil defense forces of any other party state, while operating within its state limits under the terms and conditions of the compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, privileges, and immunities as if they were performing their duties in the state in which normally employed or rendering services[.];
  - (B) Whenever any person holds a license, certificate, or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving this skill in any party state to meet an emergency or disaster and the state shall give due recognition to such license, certificate, or other permit as if issued in the state in which aid is rendered[.];
  - (C) No party state or its officers or employees rendering aid in another state pursuant to the compact shall be liable on account of any act or omission on the part of the forces while so engaged, or on account of the maintenance or use of any materials, equipment, goods, or facilities in connection therewith[.];
  - (D) As an alternative to paragraph (C), such other or modified form of immunity as the governor may find acceptable[.];
  - (E) Each party state shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that state and the representatives of deceased members of the forces in case the members sustain injuries or are killed while rendering aid pursuant to the compact, in the

same manner and on the same terms as if the injury or death were sustained within the state[.];

- (F) Any party state rendering aid in another state pursuant to the compact shall be reimbursed by the party state receiving aid, or by the United States government under plans approved by it, for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for all costs incurred in connection with requests for aid; provided that this paragraph shall not be deemed to preclude the State, if it is the aiding state, from assuming in whole or in part the loss, damage, expense, or other cost, or from loaning the equipment or donating the services to the receiving party state without charge or cost[.];
  - (G) Any party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for the evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items; the expenditures shall be reimbursed by the party state of which the evacuees are residents, or by the United States government under plans approved by it[.]; and
  - (H) In the event of an evacuation, the party state of which the evacuees are residents shall, after the termination of the emergency or disaster, assume the responsibility for the ultimate support or repatriation of the evacuees[.];
- (4) [Other mutual aid.] Sponsor and develop mutual aid plans and agreements for civil defense between the political subdivisions of the State and between one or more political subdivisions and other public or private agencies, for the furnishing or exchange of food, clothing, medicine, and other materials; engineering services, emergency housing; police services; health, medical, and related services; fire fighting, rescue, transportation, and construction services and facilities; personnel necessary to provide or conduct these services; and such other materials, facilities, personnel, and services as may be needed. The mutual aid plans and agreements may be made with or without provisions for reimbursement of costs and expenses, and on such terms and conditions as are deemed necessary[.];
- (5) [Control and utilization of government agencies.] Order and direct government agencies, officers, and employees, state or local, to take such action and employ such measures for law enforcement, medical, health, fire fighting, traffic control, warnings, and signals, engineering, rescue, construction, emergency housing, and other welfare, hospitalization, transportation, water supply, public information, training, and other civil defense and emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers. All such agencies and officers shall cooperate with and extend their services, materials, and facilities to the governor as the governor may request[.];
- (6) [Utilization of public property.] Take possession of, use, manage, control, and reallocate any public property, state or county, real or personal, required by the governor for the purposes of this chapter, including, without limitation, airports, parks, playgrounds, and schools, and other public buildings. Whenever the property is so taken the governor shall have power to make such provision for the

- temporary accommodation of the government service affected thereby as the governor may deem advisable. Like provisions may be made at any time whenever it is necessary to relocate any government service because of any emergency condition[.];
- (7) [Utilization of existing private agencies.] Utilize all services, materials, and facilities of nongovernmental agencies, relief organizations, community associations, and other civil groups and private agencies that may be made available[.];
  - (8) [Contributions.] Receive, expend, or use contributions or grants in money, property, or services, or loans of property, or special contributions or grants in money, property, or services, or loans of property, for special purposes provided for by this chapter; establish funds in the treasury for the deposit and expenditure of the moneys; procure federal aid as the same may be available, and apply the provisions of chapter 29 in cases of federal aid even though not in the form of money. The contributions or grants are appropriated for the purposes of this chapter, or for the special purposes[.];
  - (9) [Maintenance and insurance of public property; restoration of vital facilities.] Provide for the repair and maintenance of public property, whenever adequate provision therefor is not otherwise made; insure the property against any war risk, including without limitation damage or loss resulting from or arising out of an attack or action in resisting or combating an attack or apparent attack; provide for the restoration, renovation, replacement, or reconstruction of insured property in the event of damage or loss, and make temporary restoration of public utilities and other vital facilities in the event of an attack or other disaster[.];
  - (10) [Procurement, etc.] Purchase, make, produce, construct, rent, lease, or procure by condemnation or otherwise, transport, store, install, maintain, and insure, repair, renovate, restore, replace, or reconstruct, and distribute, furnish, or otherwise dispose of, with or without charges therefor, materials and facilities for civil defense and other emergency functions; procure federal aid therefor whenever feasible; and take any [and all] measures which may, in the governor's opinion, secure, stimulate, or increase similar activities by private or public persons or organizations. Chapter \_\_\_\_\_, sections [103-41 to 103-57,] 103-49, 103-50, 103-53 through 103-57, 105-1 to 105-10 and 464-4 shall not apply to any civil defense or other emergency functions if and to the extent that the governor [shall find] finds that the provisions, in whole or in part, impede or tend to impede the expeditious discharge of the functions, or that compliance therewith is impracticable due to existing conditions. In cases of extreme urgency during a civil defense emergency period the governor may suspend the penal provisions of sections 46-45 and 103-9, except those provisions that concern falsification[.];
  - (11) [Personnel.] Appoint, employ, train, equip, and maintain, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 77, and 79, part II of chapter 88 and section 78-1, such agencies, officers, and other persons as the governor deems necessary to carry out this chapter; determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject



to section 128-15, provide for and effect the interchange of personnel, by detail, transfer, or otherwise, between the State and any political subdivision, or among any agencies or departments of the State[.];

- (12) [Charges.] Make charges in such cases and in such amounts as the governor deems advisable, for any property sold, work performed, services rendered, or accommodations or facilities furnished by the government under this chapter; and make charges for licenses or permits to cover administrative expense connected therewith[.];
- (13) [Contracts.] Make such contracts as may be necessary to carry out this chapter[.];
- (14) [Accounting.] Establish special accounting forms and practices whenever necessary[.]; and
- (15) [Other powers.] Take any and all steps necessary or appropriate to carry out the purposes of this chapter and to provide for civil defense and other emergency functions.
- [(16) Powers under this chapter are additional.]

The powers and authority conferred upon the governor by this chapter are in addition to any other powers or authority conferred upon the governor by the laws of the United States and of the State for the same or a like purpose, and shall not be construed as abrogating, limiting, or modifying any such powers, or authority.””

SECTION 19. Sections 29-17 through 29-23, Hawaii Revised Statutes, are repealed.

SECTION 20. Section 103-24.5, Hawaii Revised Statutes, is repealed.

SECTION 21. Sections 103-41, 103-42, 103-43, 103-43.5, 103-44, and 103-45, Hawaii Revised Statutes, are repealed.

SECTION 22. Sections 103-46, 103-47, and 103-48, Hawaii Revised Statutes, are repealed.

SECTION 23. Section 103-51, Hawaii Revised Statutes, is repealed.

SECTION 24. Chapter 106, Hawaii Revised Statutes, is repealed.

SECTION 25. Act 8, Special Session Laws of Hawaii 1993, is amended by repealing section -210 of the chapter established in section 2 of the Act.

["[§ -210] Exemptions. Unless otherwise provided by rules of the policy office, the following goods, services, and construction need not be procured by a chief procurement officer, but shall nevertheless be procured by an appropriate purchasing agency subject to the requirements of this chapter and the rules adopted by the policy office:

- (1) Works of art for museum and public display, which are generally sole source procurements;
- (2) Published books, maps, periodicals, and technical pamphlets, which are generally small purchases;
- (3) Meats and foodstuffs for the Kalaupapa settlement; and

- (4) Goods purchased by the State for commercial resale to the public, which procurements shall also be exempt from the competitive source selection methods contained in part III of this chapter.”]

SECTION 26. Act 8, Special Session Laws of Hawaii 1993, is amended by repealing section -905 of the chapter established in section 2 of the Act.

[[“§ -905] **Reciprocal preference.** (a) To ensure fair and open competition for Hawaii businesses engaged in contracting with other states, the chief procurement officer may impose a reciprocal preference against bidders from those states which apply preferences. The amount of the reciprocal preference shall be equal to the amount by which the preference which would be applied by the state of the nonresident bidder exceeds any preference applied by this State.

In determining whether a bidder qualifies as a resident bidder, the definition which would be utilized by the other state in applying such a preference shall be applied.

(b) The policy office may adopt rules to implement this section.

(c) This section shall not apply to any transaction if the provisions of the section conflict with any federal laws.”]

SECTION 27. Section 6 of Act 8, Special Session Laws of Hawaii 1993, is repealed.

[“SECTION 6. Section 103-22.1, Hawaii Revised Statutes, is amended to read as follows:

“§103-22.1 **Services of the handicapped.** When a governmental agency contracts for or purchases services, five per cent preference shall be given to services to be performed by nonprofit corporations or public agencies operating sheltered workshops servicing the handicapped in conformance with criteria established by the department of labor and industrial relations pursuant to chapter 91; provided that service contracts awarded under this section shall be exempt from the wages provision of section 103-55. The [state comptroller] policy office shall adopt rules under chapter 91 to establish the preference for the services to be performed by nonprofit corporations or public agencies operating sheltered workshops consistent with this section.””]

SECTION 28. Section 7 of Act 8, Special Session Laws of Hawaii 1993, is repealed.

[“SECTION 7. Section 103-24.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§103-24.5]] **Procurement preference for recycled products.** In order to encourage the use of recycled products, contracts shall be awarded [to the lowest bidders,] in accordance with chapter \_\_\_\_\_, with preference given to the products containing recycled raw material. [The comptroller shall no later than January 1, 1992,] the policy office may establish rules in accordance with chapter 91 governing preference for recycled products. The rules shall establish percentages of preference and the method of determining the content of recycled raw material to qualify various products for preference.””]

SECTION 29. Section 10 of Act 8, Special Session Laws of Hawaii 1993, is repealed.

[“SECTION 10. Section 103-42, Hawaii Revised Statutes, is amended to read as follows:

“**§103-42 Hawaii products list, bidding and [advertisements.] public notice.** The [state comptroller] policy office shall make rules [and regulations] for the establishment and administration of a Hawaii products list, including the various classifications of Hawaii products; for necessary procedures for qualifying and registering products for such list; for the annual revision of the list; and for such other purposes as may be necessary to carry out the intent of the preferences provided for in section 103-43.

The [comptroller] chief procurement officer shall distribute copies of the list to the purchasing departments of the various governmental agencies.

The [comptroller] chief procurement officer shall have the authority to examine and review the financial statements and such other reports as may be necessary, of any person, who desires to have the person's products on the Hawaii products list, to determine whether the products meet the qualifications. All persons whose products are on the Hawaii products list shall be responsible for informing the [comptroller] chief procurement officer of any change in the classifications of their products which have been originally registered with the Hawaii products list within two months of the change. In any event, such persons shall file annually with the [comptroller] chief procurement officer such documents or information as may be required in determining any change in the classification of a Hawaii product under the rules [and regulations] to be established by the [comptroller.] policy office, within two months from the closing of their books, whether on a fiscal or calendar year.

[Advertisement for bids] Public notice of invitations for bids and requests for proposals by a governmental agency shall contain, if applicable, a notice referring to the preferences for Hawaii products and to section 103-43, and shall also contain a notice referring to the place where the Hawaii products list may be examined.””]

SECTION 30. Section 11 of Act 8, Special Session Laws of Hawaii 1993, is repealed.

[“SECTION 11. Section 103-43, Hawaii Revised Statutes, is amended to read as follows:

“**§103-43 Mandatory purchase of Hawaii products.** In any expenditure of public funds, a governmental agency shall review purchase and design specifications of public works contracts including repair and maintenance requirements for products and purchase any required product from the Hawaii products list established under section 103-42 where such products are available, provided the products meet the minimum specifications and the selling price f.o.b. jobsite; unloaded including applicable general excise tax and use tax does not exceed the lowest delivered price in Hawaii f.o.b. jobsite; unloaded including applicable general excise tax and use tax of a similar non-Hawaii product by more than three per cent, where Class I Hawaii products are involved, or five per cent where Class II Hawaii products are involved, or ten per cent where Class III Hawaii products are involved.

Where a package bid or purchase contains both Hawaii and non-Hawaii products, then for the purpose of selecting the lowest bid or purchase price only, the price bid or offered for a non-Hawaii product item shall be increased by adding thereto three per cent, five per cent, or ten per cent where similar Class I,

Class II, or Class III Hawaii product items have been bid or offered by another party pursuant to the preferences stated above. The lowest total bid, taking into consideration the above preferences, shall be awarded the contract but the contract amount of any contract awarded, however, shall be the amount of the bid or price offered, exclusive of such preferences.

Notwithstanding the provisions of the preceding paragraphs, an additional five per cent preference shall be applicable to Hawaii products manufactured by nonprofit corporations and public agencies operating sheltered workshops as certified by the department of labor and industrial relations for physically or mentally handicapped persons. The [state comptroller] policy officer shall adopt rules under chapter 91 to require a governmental agency to give an additional five per cent preference to the purchase of products manufactured by nonprofit corporations or public agencies operating sheltered workshops consistent with this section.””]

SECTION 31. Section 12 of Act 8, Special Session Laws of Hawaii 1993, is repealed.

[“SECTION 12. Section 103-48, Hawaii Revised Statutes, is amended to read as follows:

“**§103-48 Penalty.** Any officer of the State or of any municipality, county, or other political subdivision thereof, or any person acting under or for such officer, or any other person who violates [any provisions of sections 103-22,] section 103-22.1], 103-23, 103-29, and 103-33] shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Any officer or employee of any governmental agency who violates any provisions of sections 103-41 through 103-47 shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Any person, or any officer or employee of any person, who violates any provisions of sections 103-41 through 103-47 shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and any person who is awarded a contract or given an order for purchase as a result of misrepresentation in the person’s bid or makes a claim in the person’s bid that the person will purchase Hawaii products, but fails to do so shall, in addition, be fined the difference between the price of the products actually used or supplied and the price the person would have paid for Hawaii products and shall not be awarded any contract or be given any order for purchase or be eligible for bidding until one year after the date when such person pays the fines levied under this section.””]

SECTION 32. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 33. This Act shall take effect on July 1, 1994; except that section 3 shall take effect upon approval.

(Approved June 21, 1994.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Recovery of Payments.

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

SECTION 1. Section 346-29, Hawaii Revised Statutes, is amended to read as follows:

**“§346-29 Applications for public assistance; manner, form, conditions.**

(a) Applications for public assistance under this chapter shall be made by the applicant, or by someone acting in the applicant's behalf, in the manner, place, and form prescribed by the department.

(b) No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a standard above that provided in this chapter, or who is an inmate of any public institution as long as the Social Security Act precludes the use of federal funds to provide public assistance to an inmate of such an institution, except that any inmate of a public institution who is otherwise eligible for medical assistance and who has been determined by the medical director of the institution as having a major illness or medical condition requiring the provision of medical care outside of the institution may receive assistance under this chapter. An inmate of an institution mentioned in this section may apply for assistance to begin after the inmate's discharge from the institution. In determining the needs of an applicant or recipient for public assistance by the department, the department shall:

- (1) [Shall disregard] Disregard such amounts of earned or unearned income and resources as required by the Social Security Act or other federal acts, to receive federal matching funds and may disregard such additional amounts as these acts permit, now or in the future, to be disregarded[.];
- (2) [Shall consider] Consider as net income in all cases such income as the Social Security Act or other federal acts may require the department to consider for receipt of federal matching funds and may consider such additional income and resources as these acts may permit, now or in the future, to be considered[.];
- (3) [Shall disregard] Disregard a total of \$1,000 in assets in determining the needs of persons for financial assistance; provided that the amount to be disregarded<sup>1</sup> shall not exceed standards under federally funded financial assistance programs. This [provision] paragraph shall not apply to persons eligible for Federal Supplemental Security Income benefits. In determining the needs of such persons, the department shall apply the resource retention requirements under the Federal Supplemental Security Income Program[.];
- (4) [Shall apply] Apply the resource retention requirements under the Federal Supplemental Security Income Program in determining the needs of a single person for medical assistance only[.];
- (5) [Shall apply] Apply the resource retention requirements under the Federal Supplemental Security Income Program in determining the needs of a family of two persons for medical assistance only and an additional \$250 for each additional person included in an application for medical assistance only[.];
- (6) [Shall disregard] Disregard amounts of emergency assistance granted under section 346-65[.];

- (7) [Shall not] Not consider as income or resources any payment for services to or on behalf of, or any benefit received by, a participant under the [workfare program of part IX,] JOBS program of part XI, other than wages. Wages earned by a participant while participating in the [workfare] JOBS program shall be considered income of the participant, unless the wages are excluded or disregarded under any other law[.];
- (8) [Shall not] Not consider as income or resources payment made to eligible individuals, eligible surviving spouses, surviving children or surviving parents as specified under Title I of the Civil Liberties Act of 1988, Public Law 100-383, which made restitution to individuals of Japanese ancestry who were interned during World War II[.];
- (9) [Shall allow] Allow the community spouse of an individual residing in a medical institution to maintain countable resources to the maximum allowed by federal statutes or regulations with provisions for increases, as allowed by the Secretary of Health and Human Services by means of indexing, court order, or fair hearing decree, without jeopardizing the eligibility of the institutionalized spouse for medical assistance[.];
- (10) [Shall allow] Allow an individual residing in a medical institution to contribute toward the support of the individual's community spouse, thereby enabling the community spouse to maintain the monthly maximum income allowed by federal statutes or regulations, with provisions for increases as allowed by the Secretary of Health and Human Services by means of indexing, court order, or fair hearing decree[.]; and
- (11) Consider the transfer of assets from the applicant's name to another name within the specified time period as required by federal regulations, known as the "lookback" period, prior to the application for medical assistance for care in a nursing home or other long-term care facility. Pursuant to rules adopted under chapter 91, the director may attribute any assets that have been transferred within the required federal "lookback" period from the applicant if the director determines that the transfer of certain assets was made solely to make the applicant eligible for assistance under this chapter.

(c) In determining eligibility for medical assistance, the department shall require from all applicants and recipients the assignment of any benefits due to a third party liability. Any rights or amounts so assigned shall be applied against the cost of medical care paid under this chapter.

(d) The director shall adopt rules pursuant to chapter 91 defining assets and to determine eligibility for medical assistance; provided that the cash surrender value of life insurance policies owned by persons included in an application shall be treated as assets."

SECTION 2. Section 346-29.5, Hawaii Revised Statutes, is amended to read as follows:

**"§346-29.5 Real property liens.** (a) The department of human services may require of any person applying for or currently receiving assistance under the department's programs, including but not limited to [aid to families with dependent children, medicaid,] social service payments, financial assistance, medical assistance, and food stamps, [and general assistance,] who owns or has any interest in real property, that the person shall enter into an agreement with the

department that future grants of assistance shall be and constitute a lien against the interest in real property, and shall remain a lien until satisfied and discharged, with the exception of home property lived on by the assistance household.

(b) The department may place a lien against the real property of any recipient receiving medical assistance who is an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, after a state determination, pursuant to notice and hearing requirements of chapter 91, that the recipient cannot reasonably be expected to be discharged from the medical institution and returned home.

The department may not place a lien on the recipient's home if the recipient's:

- (1) Spouse;
- (2) Minor, blind, or disabled child; or
- (3) Sibling who has an equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the recipient's admission to the medical institution;

is lawfully residing in the home.

The department shall not recover funds from the lien on the recipient's home when:

- (1) A sibling who was residing in the home for a period of at least one year immediately before the date of the recipient's admission to the medical institution; or
- (2) A son or daughter who was residing in the recipient's home for a period of at least two years immediately before the date of the recipient's admission to the medical institution, and who establishes to the satisfaction of the State that he or she provided care to the recipient which permitted such recipient to reside at home rather than in an institution;

lawfully resides in the home and has lawfully resided in the home on a continuous basis since the date of the recipient's admission to the medical institution.

The department also shall not recover funds from the lien if the recipient has a surviving spouse; or surviving minor, blind, or disabled child.

Any lien imposed with respect to this subsection shall be dissolved upon the individual's discharge from the medical institution and return home.

[(b) (c) The agreement in subsection (a) shall be recorded in the bureau of conveyances, or filed in the office of the assistant registrar of the land court. When the agreement for the lien is recorded in the bureau of conveyances, the registrar shall forthwith cause the same to be indexed in the general indexes of the bureau of conveyances. From and after the recording in the bureau of conveyances the lien shall attach to all interests in real property then owned by the person and not registered in the land court, and from and after the filing thereof in the office of the assistant registrar of the land court the lien shall attach to any such interest in land then registered therein. The lien shall be for all amounts of assistance, unless otherwise provided by rules adopted pursuant to chapter 91, then or thereafter paid in accordance with the programs from which the person receives assistance. The department shall be obligated to annually update the actual amount of the lien recorded in the bureau of conveyances.

[(c) (d) The department shall issue certificates of release or partial release upon satisfaction or partial satisfaction of the lien. Certificates of release or partial release of any real property lien issued by the director of the department or the director's authorized representative shall be recorded in the bureau of conveyances. The director shall consider issuing conditional certificates of release

in cases of extreme hardship as set out in rules adopted under chapter 91. The registrar shall forthwith cause the same to be indexed in the general indexes in a like manner as the original lien. No fee shall be charged for any of the recording. The lien herein provided for shall take priority over any other lien subsequently acquired or recorded except tax liens and except that, in the estate of a beneficiary, the actual funeral expenses, the expenses of the last sickness, the cost of administration of the estate, and any allowance made to the surviving spouse and children for their support during administration of the estate, shall have priority and preference over the lien herein imposed, and over any claim against an estate filed under section 346-37.

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

The lien shall be enforceable as a claim under section 346-37 against the estate of a recipient under any circumstances if the estate is admitted to probate at the instance of any interested party other than the department.

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

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

The proceeds from the enforcement, payment, or compromise of the lien shall be paid into the treasury of the State. If the amount of assistance reflected by the proceeds was paid in part by federal funds, the proper portion of these funds shall be paid by the director of finance to the treasury of the United States. The director of finance shall thereupon report such payment to the department. If the federal funds are not paid directly into the treasury of the United States, these federal funds shall be credited by the director of finance to the department for expenditure for assistance without need for further appropriation.

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

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

The department shall adopt rules pursuant to chapter 91 necessary for the purposes of this section."



SECTION 3. Section 346-34, Hawaii Revised Statutes, is amended to read as follows:

“§346-34 **Frauds, penalties.** (a) Any recipient who buys or disposes of real property or any person who knowingly aids or abets a recipient in the purchase or sale of real property without the consent of the department of human services shall be guilty of fraud.

(b) If, at any time while the recipient of public assistance is receiving such assistance, the recipient’s living requirements are reduced and the recipient wilfully fails to report the reduction within thirty days from the date of the reduction to the department, or the recipient acquires from any source real property, funds, income, or other resources and wilfully fails to report the amount of same together with the source of the resources to the department within thirty days of receipt of same, or prior to spending or otherwise disposing of all or any portion of the same, the recipient shall be guilty of fraud and be subject to the penalties provided by this section.

(c) No person shall knowingly obtain or attempt to obtain, or aid or abet another person in obtaining or attempting to obtain, any food commodity under a food distribution program or any food stamp or coupon under a food stamp plan, to which the person or the other person is not entitled to receive or use under any law, or under any rule adopted pursuant to section 346-14(10) or chapter 91.

(d) No person shall knowingly give, sell, trade, or otherwise dispose of to another person not entitled to receive or use the same pursuant to any law, or pursuant to any rule adopted pursuant to section 346-14(10) or chapter 91:

- (1) Any food commodity received under a food distribution program;
- (2) Any food stamp or coupon received under a food stamp plan; or
- (3) Any food commodity received wholly or partially in exchange for a food stamp or coupon received under a food stamp plan.

(e) No person shall knowingly obtain or attempt to obtain emergency assistance under section 346-65 to which the person is not entitled. No person shall knowingly aid or abet another person in obtaining or attempting to obtain emergency assistance to which that other person is not entitled. No person shall expend emergency assistance granted to the person for other than the purpose approved by the department to eliminate or alleviate the emergency situation.

(f) No person shall knowingly transfer assets from that person’s name to another person or entity’s name for the purpose of qualifying for public assistance under this chapter or chapter 346D. It shall be prima facie evidence of such a transfer if there was a transfer of assets for less than fair market value of the assets within the federally required time period, or “lookback” period, from the date of the application for public assistance.

(g) Any person convicted under this section shall be guilty of a misdemeanor. Any portion of assistance obtained by any fraudulent device, and any assistance paid after receipt of resources which have not been reported to the department as herein required shall be recoverable by the State for the use of the department as a debt due the State, or, restitution of the amount may be ordered by the court following conviction.

(h) The term “recipient” includes any person to whom a grant of public assistance is made by direct payment, and any person for whose use and benefit a grant of public assistance is made by payment to a relative or other person. Prosecution under this section shall not be considered an exclusive remedy but shall be in addition to any other criminal, civil, or administrative remedy or sanction authorized by law.”

SECTION 4. Section 346-37, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If a recipient under this chapter dies leaving an estate and does not have a surviving spouse, child, father, mother, grandfather, grandmother, grandchild, stepfather, stepmother, or any designated heir, the department may file a claim against the estate for the amount of social services [payments,] overpayments, financial assistance[,], overpayments, or burial payments granted, and the claim shall be allowed. The department [may] shall file a claim against the estate of a deceased recipient of medical assistance for the amount of medical assistance granted, only if the recipient was age [sixty-five] fifty-five or over when such medical assistance was received and there is no [dependent] surviving spouse, or [dependent] surviving child who is under twenty-one years of age, or [is] blind, or disabled. The department shall file a claim against the estate of a recipient of medical assistance who was an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution only if there is no surviving spouse or surviving child who is under twenty-one years of age, or blind, or disabled.”

SECTION 5. Section 346-37, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

“(d) [Where legal proceedings are instituted] When a claim is made by the claimant against a third person, the claimant shall give timely notice of such action to the department. An attorney representing a claimant shall make reasonable inquiry as to whether the claimant has received or is receiving medical assistance related to the incident involved in the action from the department. Upon obtaining a judgment or reaching a settlement through negotiation or legal proceedings, but before the release of any award or settlement proceeds to any person:

- (1) The claimant’s attorney, if the attorney has received actual notice from the department of a lien or if the attorney has reason to know that a lien exists, or
- (2) The claimant or the claimant’s heirs, representatives, or beneficiaries, if not represented by an attorney who has received actual notice of the lien,

shall notify the department immediately.

(e) Where third party liability is found to exist, or where the issue of such third party liability is settled or compromised without a finding of liability, regardless of who institutes legal proceedings or seeks other means of recovering, the department shall have a lien in the amount of medical assistance and burial payment made against the proceeds from special damages awarded in a suit or settlement. The lien shall attach as provided in subsection (f). Where a notice of lien is properly served upon the attorney representing the claimant as provided in subsection (f), that attorney shall satisfy the lien prior to disbursing any of the proceeds of the suit or settlement to the attorney’s client. Where a notice of lien is properly served upon the third person described in subsection (c), the third person’s agent or attorney, or upon the third person’s insurance company, as provided in subsection (f), it shall be the responsibility of the third person to satisfy the lien prior to disbursing any of the proceeds to the claimant’s attorney. This section is not intended to restrict or diminish the right of the department to settle or compromise its subrogation or lien rights provided herein.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval and apply only to settlements and judgments which occur after the effective date.

(Approved June 21, 1994.)

Note

- 1. Prior to amendment, comma appeared here.

ACT 188

H.B. NO. 3326

A Bill for an Act Relating to Community Hospitals Division's Pilot Autonomy Project.

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

SECTION 1. The legislature finds that the autonomy pilot project to foster autonomous operation of Maui Memorial, Hilo, Kona, Kula, Maluhia, Kauai Veterans Memorial, Samuel Mahelona Memorial, and Leahi hospitals, has contributed effectively to expediting and improving the delivery of health care services by Hawaii's public hospital system. This pilot project has demonstrated positive benefits to the operating efficiency and the financial performance of the hospitals.

The purpose of this Act is to expand the pilot project to include four rural hospitals, a medical clinic, and the division staff office, in order that they may enjoy the same benefits of the pilot autonomy project.

SECTION 2. Act 8, Special Session Laws of Hawaii 1993, is amended by amending subsection (b) of section -209 of the chapter established in section 2 of the Act, to read as follows:

"(b) No department of the State, other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the housing finance and development corporation or the public utilities commission;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund, the contractors license board in any action involving the contractors recovery fund, and the trustees in any action involving the travel agency recovery fund;
- (6) To grand jury counsel;
- (7) To the office of Hawaiian affairs;
- (8) To the department of commerce and consumer affairs; provided that

its attorney shall be responsible for the prosecution of consumer complaints;

- (9) To the employees retirement system;
- (10) To the Hawaiian home lands trust individual claims review panel; [or]
- (11) To all community hospitals and the division of community hospitals for any attorney contracted by the hospitals through the attorney general; or
- [(11)] (12) In the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines representation or counsel, or approves a department's expenditures; provided that the governor thereupon waives the provision of this section.

For the purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed as a grand jury counsel, the department of commerce and consumer affairs in prosecution of consumer complaints, or the Hawaiian home lands trust individual claims review panel, shall become a deputy attorney general."

SECTION 3. The director of health, with the approval of the governor, may establish and fill up to seventy-five health care specialty positions, without regard to chapters 76 and 77, Hawaii Revised Statutes, and assign them to the hospitals covered by the pilot autonomy project authorized in Act 211, Session Laws of Hawaii 1993.

SECTION 4. Nothing in this Act shall supersede collective bargaining agreements or statutes protecting employee rights or providing employee benefits. No employee shall be adversely affected by this Act.

SECTION 5. Act 211, Session Laws of Hawaii 1993, is amended by amending section 2 to read as follows:

"SECTION 2. The department of health, through its director, shall formulate policies for the autonomous operation of the community hospitals until June 30, 1996. The provisions of this Act shall apply to Hilo Hospital, Maui Memorial Hospital, Kona Hospital, Kauai Veterans Memorial Hospital, Leahi Hospital, Maluhia Hospital, Kula Hospital, [and] Samuel Mahelona Memorial Hospital[.], Ka'u Hospital, Honokaa Hospital, Kohala Hospital, Lanai Community Hospital, Hana Medical Center, and the division of community hospitals administrative staff office to the extent that it is acting on behalf of any or all of the community hospitals."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 2, 1994, and shall be repealed on June 30, 1996; provided section 103D-209, Hawaii Revised Statutes, shall be reenacted in the form in which it read on July 1, 1994.

(Approved June 21, 1994.)

A Bill for an Act Relating to the State Post-Secondary Education Commission.

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

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

“[[CHAPTER 305H]]  
**STATE POST-SECONDARY EDUCATION COMMISSION**

**PART I. GENERAL AND ADMINISTRATIVE PROVISIONS**

**[[§305H-1]] Establishment of the state post-secondary education commission - membership, administration.** There is established a state post-secondary education commission for the State of Hawaii. The commission shall consist of the members of the board of regents of the University of Hawaii, the provision of section 78-4 notwithstanding, and four other members who shall be broadly and equitably representative of the general public, and public and private non-profit and proprietary institutions of post-secondary education in the State who shall be appointed in accordance with section 26-34. The commission shall be placed within the University of Hawaii for administrative purposes and its administrative officer shall be the president of the University of Hawaii. The commission may appoint necessary staff members in accordance with applicable policies and procedures of the University of Hawaii.

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

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

**PART II. HAWAII STATE POSTSECONDARY REVIEW PROGRAM**

**§305H- Findings and purpose.** The legislature finds that the Higher Education Amendments of 1992, P.L. 102-325, established the state postsecondary review program by adding a new Part H, Subpart 1, to Title IV of the Higher Education Act of 1965. The state postsecondary review program ensures

that institutions participating in Title IV student financial assistance programs meet appropriate standards of educational quality and integrity by increasing the accountability of those institutions through expanded state oversight of the institutions. In order for the State to continue receiving all Title IV student financial assistance funds, the State's postsecondary review entity must conduct or coordinate the review of institutions of higher education in the State to determine their eligibility to receive Title IV student financial assistance funds and, further, to establish and administer procedures for receiving and responding to complaints from students, faculty, and others regarding institutions of higher education in the State. The state postsecondary review program authorizes the United States Secretary of Education to enter into agreements with the states. These agreements designate one state postsecondary review entity in each state to be responsible for the conduct or coordination of review of institutions and, also, provide federal funds to each state postsecondary review entity for performing the functions required by these agreements. No state will be required to perform the review functions of the state postsecondary review program if the United States Congress does not appropriate funds for the program.

Accordingly, the purpose of this part is to expressly authorize the commission to cooperate with the federal government in carrying out the purposes of the state postsecondary review program in the State.

**§305H- Administration of the Hawaii state postsecondary review program.** The commission shall serve as the state postsecondary review entity for the State. The commission is hereby authorized to cooperate with the federal government in carrying out the purposes of the state postsecondary review program, as established by Title IV, Part H, Subpart 1, of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1992, P.L. 102-325, and as it may be amended from time to time, and to do all things necessary to entitle the State to continue to receive the benefits of the Title IV student financial assistance programs. The commission shall represent the State on all matters in reference to the state postsecondary review program.

**§305H- Agreement with the federal government; federal reimbursement of the State's postsecondary review costs.** The commission is authorized to enter into agreements with the federal government to carry out the purposes of the state postsecondary review program. To the extent authorized by law, the commission shall seek reimbursement from the federal government for the costs of performing the functions required by such agreements with the federal government.

**§305H- Review standards.** In consultation with institutions of higher education in the State and in a manner consistent with the laws and constitution of the State, the commission is authorized to establish appropriate review standards for the determination of the eligibility of institutions in the State to receive Title IV student financial assistance funds. The commission shall conduct or coordinate the review of institutions of higher education in the State in accordance with these review standards and may notify the federal government of the findings.

**§305H- Procedures for complaints concerning institutions of higher education.** In consultation with institutions of higher education in the State, the commission is authorized to establish and administer procedures for

receiving and responding to complaints from students, faculty, staff, and others concerning institutions of higher education in the State.

§305H- Cooperation with other state agencies. The commission may be assisted by other state agencies, including but not limited to the University of Hawaii, the department of education, and the department of commerce and consumer affairs.”

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

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

(Approved June 21, 1994.)

**ACT 190**

H.B. NO. 3426

A Bill for an Act Relating to Accreditation in Insurance Regulation.

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

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new part to article 3 to be appropriately designated and to read as follows:

**“PART . RISK-BASED CAPITAL  
FOR LIFE AND HEALTH INSURERS**

**§431:3-A Definitions.** For purposes of this part unless the context otherwise requires:

“Adjusted risk-based capital report” means a risk-based capital report which has been adjusted by the commissioner in accordance with section 431:3-B(c).

“Corrective order” means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required.

“NAIC” means the National Association of Insurance Commissioners.

“Negative trend” means a negative trend over a period of time, as determined in accordance with the “trend test calculation” included in the risk-based capital instructions.

“Risk-based capital instructions” means the risk-based capital report including risk-based capital instructions adopted by the NAIC, as such risk-based capital instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

“Risk-based capital level” means an insurer’s company action level risk-based capital, regulatory action level risk-based capital, authorized control level risk-based capital, or mandatory control level risk-based capital where:

- (1) “Company action level risk-based capital” means, with respect to any insurer, the product of 2.0 and its authorized control level risk-based capital;
- (2) “Regulatory action level risk-based capital” means, with respect to any insurer, the product of 1.5 and its authorized control level risk-based capital;

- (3) “Authorized control level risk-based capital” means, with respect to any insurer, the number determined under the risk-based capital formula in accordance with the risk-based capital instructions; and
- (4) “Mandatory control level risk-based capital” means, with respect to any insurer, the product of 0.70 and the authorized control level risk-based capital.

“Risk-based capital plan” means a comprehensive financial plan containing the elements specified in section 431:3-C(b). If the commissioner rejects the risk-based capital plan and it is revised by the insurer, with or without the commissioner’s recommendation, the plan shall be called the “revised risk-based capital plan.”

“Risk-based capital report” means the report required in section 431:3-B.

“Total adjusted capital” means the sum of:

- (1) An insurer’s statutory capital and surplus; and
- (2) Any other items that the risk-based capital instructions may provide.

**§431:3-B Risk-based capital reports.** (a) Every domestic insurer, on or before each March 15 (the “filing date”), shall prepare and submit to the commissioner a report of its risk-based capital levels as of the end of the calendar year just ended, in a form and containing any information that is required by the risk-based capital instructions. In addition, every domestic insurer shall file its risk-based capital report:

- (1) With the NAIC in accordance with the risk-based capital instructions; and
- (2) With the insurance commissioner in any state in which the insurer is authorized to do business, if the commissioner has notified the insurer of its request in writing, in which case the insurer shall file its risk-based capital report not later than the later of:
  - (A) Fifteen days from the receipt of notice to file its risk-based capital report with that state; or
  - (B) The filing date.

(b) An insurer’s risk-based capital shall be determined in accordance with the formula set forth in the risk-based capital instructions. The formula shall take into account and may adjust for the covariance between the following, which shall be determined in each case by applying the factors in the manner set forth in the risk-based capital instructions:

- (1) The risk with respect to the insurer’s assets;
- (2) The risk of adverse insurance experience with respect to the insurer’s liabilities and obligations;
- (3) The interest rate risk with respect to the insurer’s business; and
- (4) All other business risks and any other relevant risks that are set forth in the risk-based capital instructions.

(c) If a domestic insurer files a risk-based capital report which, in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the risk-based capital report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment. A risk-based capital report as so adjusted is referred to as an adjusted risk-based capital report.

**§431:3-C Company action level event.** (a) “Company action level event” means any of the following events:

- (1) The filing of a risk-based capital report by an insurer which indicates that:



- (A) The insurer's total adjusted capital is greater than or equal to its regulatory action level risk-based capital but less than its company action level risk-based capital; or
  - (B) The insurer has total adjusted capital which is greater than or equal to its company action level risk-based capital but less than the product of its authorized control level risk-based capital and 2.5, and has a negative trend;
- (2) The notification by the commissioner to the insurer of an adjusted risk-based capital report that indicates the occurrence of the event in paragraph (1)(A) or (B), if the insurer does not challenge the adjusted risk-based capital report under section 431:3-G; or
- (3) If the insurer challenges an adjusted risk-based capital report that indicates the occurrence of the event in paragraph (1)(A) or (B) under section 431:3-G, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.
- (b) In the event of a company action level event, the insurer shall prepare and submit to the commissioner a comprehensive financial plan which shall:
- (1) Identify the conditions in the insurer which contribute to the company action level event;
  - (2) Contain proposals of corrective actions which the insurer intends to take and would be expected to result in the elimination of the company action level event;
  - (3) Provide projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, and surplus. The projections for both new and renewal business may include separate projections for each major line of business and separately identify each significant income, expense, and benefit component;
  - (4) Identify the key assumptions having an impact on the insurer's projections and the sensitivity of the projections to the assumptions; and
  - (5) Identify the quality of, and problems associated with, the insurer's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance in each case, if any.
- (c) The risk-based capital plan shall be submitted:
- (1) Within forty-five days of the company action level event; or
  - (2) If the insurer challenges an adjusted risk-based capital report pursuant to section 431:3-G, within forty-five days after notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.
- (d) Within sixty days after the submission by an insurer of a risk-based capital plan to the commissioner, the commissioner shall notify the insurer whether the risk-based capital plan shall be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the risk-based capital plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions which will render the risk-based capital plan satisfactory, in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a revised risk-based capital plan, which may incorporate by reference any revisions proposed by

the commissioner, and shall submit the revised risk-based capital plan to the commissioner:

- (1) Within forty-five days after the notification from the commissioner; or
- (2) If the insurer challenges the notification from the commissioner under section 431:3-G, within forty-five days after a notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(e) In the event of a notification by the commissioner to an insurer that the insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory, the commissioner, at the commissioner's discretion, subject to the insurer's right to a hearing under section 431:3-G, may specify in the notification that the notification constitutes a regulatory action level event.

(f) Every domestic insurer that files a risk-based capital plan or revised risk-based capital plan with the commissioner shall file a copy of the risk-based capital plan or revised risk-based capital plan with the insurance commissioner in any state in which the insurer is authorized to do business if:

- (1) That state has a risk-based capital provision substantially similar to section 431:3-H(a); and
- (2) The insurance commissioner of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the risk-based capital plan or revised risk-based capital plan in that state no later than the later of:
  - (A) Fifteen days after the receipt of notice to file a copy of its risk-based capital plan or revised risk-based capital plan with that state; or
  - (B) The date on which the risk-based capital plan or revised risk-based capital plan is filed under subsections (c) and (d).

**§431:3-D Regulatory action level event.** (a) "Regulatory action level event" means, with respect to any insurer, any of the following events:

- (1) The filing of a risk-based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its authorized control level risk-based capital but less than its regulatory action level risk-based capital;
- (2) The notification by the commissioner to an insurer of an adjusted risk-based capital report that indicates the occurrence of the event in paragraph (1), if the insurer does not challenge the adjusted risk-based capital report under section 431:3-G;
- (3) If the insurer challenges an adjusted risk-based capital report that indicates the occurrence of the event in paragraph (1) under section 431:3-G, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge;
- (4) The failure of the insurer to file a risk-based capital report by the filing date, unless the insurer has provided an explanation for the failure which is satisfactory to the commissioner and has cured the failure within ten days after the filing date;
- (5) The failure of the insurer to submit a risk-based capital plan to the commissioner within the time set forth in section 431:3-C(c);
- (6) Notification by the commissioner to the insurer that:
  - (A) The risk-based capital plan or revised risk-based capital plan submitted by the insurer is, in the judgment of the commissioner, unsatisfactory; and

- (B) The notification constitutes a regulatory action level event with respect to the insurer, if the insurer has not challenged the determination under section 431:3-G;
- (7) If the insurer challenges a determination by the commissioner under paragraph (6) pursuant to section 431:3-G, the notification by the commissioner to the insurer that the commissioner, after a hearing, has rejected the challenge;
- (8) Notification by the commissioner to the insurer that the insurer has failed to adhere to its risk-based capital plan or revised risk-based capital plan, but only if the failure has a substantial adverse effect on the ability of the insurer to eliminate the regulatory action level event in accordance with its risk-based capital plan or revised risk-based capital plan and the commissioner has so stated in the notification, and if the insurer has not challenged the determination under section 431:3-G; or
- (9) If the insurer challenges a determination by the commissioner under paragraph (8) pursuant to section 431:3-G, the notification by the commissioner to the insurer that the commissioner, after a hearing, has rejected the challenge, unless the failure of the insurer to adhere to its risk-based capital plan or revised risk-based capital plan has no substantial adverse effect on the ability of the insurer to eliminate the regulatory action level event with respect to the insurer.
- (b) In the event of a regulatory action level event the commissioner shall:
  - (1) Require the insurer to prepare and submit a risk-based capital plan or, if applicable, a revised risk-based capital plan;
  - (2) Perform any examination or analysis that the commissioner deems necessary of the assets, liabilities, and operations of the insurer including a review of its risk-based capital plan or revised risk-based capital plan; and
  - (3) Subsequent to the examination or analysis, issue a corrective order specifying the corrective actions the commissioner determines are required.
- (c) In determining corrective actions, the commissioner may take into account any relevant factors with respect to the insurer based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the insurer, including but not limited to the results of any sensitivity tests undertaken pursuant to the risk-based capital instructions. The risk-based capital plan or revised risk-based capital plan shall be submitted:
  - (1) Within forty-five days after the occurrence of the regulatory action level event;
  - (2) If the insurer challenges an adjusted risk-based capital report pursuant to section 431:3-G and the challenge is not frivolous in the judgment of the commissioner, within forty-five days after the notification to the insurer that the commissioner, after a hearing, has rejected the insurer's challenge; or
  - (3) If the insurer challenges a revised risk-based capital plan under section 431:3-G, within forty-five days after notification to the insurer that the commissioner, after a hearing, has rejected the insurer's challenge.
- (d) The commissioner may retain actuaries and investment experts and other consultants that may be necessary, in the judgment of the commissioner, to review the insurer's risk-based capital plan or revised risk-based capital plan,

examine or analyze the assets, liabilities, and operations of the insurer, and formulate the corrective order with respect to the insurer. The fees, costs, and expenses relating to consultants shall be borne by the affected insurer or any other party as directed by the commissioner.

**§431:3-E Authorized control level event.** (a) “Authorized control level event” means any of the following events:

- (1) The filing of a risk-based capital report by the insurer which indicates that the insurer’s total adjusted capital is greater than or equal to its mandatory control level risk-based capital but less than its authorized control level risk-based capital;
- (2) The notification by the commissioner to the insurer of an adjusted risk-based capital report that indicates the occurrence of the event in paragraph (1), if the insurer does not challenge the adjusted risk-based capital report under section 431:3-G;
- (3) If the insurer challenges an adjusted risk-based capital report that indicates the occurrence of the event in section 431:3-G(1), notification by the commissioner to the insurer that the commissioner, after a hearing, has rejected the insurer’s challenge;
- (4) The failure of the insurer to respond in a manner satisfactory to the commissioner to a corrective order; provided the insurer has not challenged the corrective order under section 431:3-G; or
- (5) If the insurer has challenged a corrective order under section 431:3-G and the commissioner, after a hearing, has rejected the challenge or modified the corrective order, the failure of the insurer to respond in a manner satisfactory to the commissioner to the corrective order subsequent to rejection or modification by the commissioner.

(b) In the event of an authorized control level event with respect to an insurer, the commissioner shall:

- (1) Take any actions that are required under section 431:3-D regarding an insurer with respect to which a regulatory action level event has occurred; or
- (2) If the commissioner deems it to be in the best interests of the policyholders and creditors of the insurer and of the public, take any actions that are necessary to cause the insurer to be placed under regulatory control under article 15. In the event the commissioner takes such actions, the authorized control level event shall be deemed sufficient grounds for the commissioner to take action under article 15, and the commissioner shall have the rights, powers, and duties with respect to the insurer as are set forth in article 15. In the event the commissioner takes actions under this paragraph pursuant to an adjusted risk-based capital report, the insurer shall be entitled to the protections that are afforded to insurers under the provisions of section 431:15-201.

**§431:3-F Mandatory control level event.** (a) “Mandatory control level event” means any of the following events:

- (1) The filing of a risk-based capital report which indicates that the insurer’s total adjusted capital is less than its mandatory control level risk-based capital;
- (2) Notification by the commissioner to the insurer of an adjusted risk-based capital report that indicates the occurrence of the event in

paragraph (1), if the insurer does not challenge the adjusted risk-based capital report under section 431:3-G; or

- (3) If the insurer challenges an adjusted risk-based capital report that indicates the occurrence of the event under section 431:3-G(1), notification by the commissioner to the insurer that the commissioner, after a hearing, has rejected the insurer's challenge.

(b) In the event of a mandatory control level event, the commissioner shall take any actions that are necessary to cause the insurer to be placed under regulatory control under article 15. In that event, the mandatory control level event shall be deemed sufficient grounds for the commissioner to take action under article 15, and the commissioner shall have the rights, powers, and duties with respect to the insurer as are set forth in article 15. In the event the commissioner takes actions pursuant to an adjusted risk-based capital report, the insurer shall be entitled to the protections that are afforded to insurers under section 431:15-201. Notwithstanding any of the foregoing, the commissioner may forego action for up to ninety days after the mandatory control level event if the commissioner finds there is a reasonable expectation that the mandatory control level event may be eliminated within the ninety-day period.

**§431:3-G Hearing.** The insurer shall have the right to a hearing pursuant to chapter 91 upon being notified of any of the following:

- (1) Notification to an insurer by the commissioner of an adjusted risk-based capital report;
- (2) Notification to an insurer by the commissioner that:
  - (A) The insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory; and
  - (B) The notification constitutes a regulatory action level event with respect to the insurer;
- (3) Notification to any insurer by the commissioner that the insurer has failed to adhere to its risk-based capital plan or revised risk-based capital plan and that the failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event with respect to the insurer in accordance with its risk-based capital plan or revised risk-based capital plan; or
- (4) Notification to an insurer by the commissioner of a corrective order with respect to the insurer.

**§431:3-H Confidentiality and prohibition on announcements.** (a) All risk-based capital reports (to the extent the information therein is not required to be set forth in a publicly available annual statement schedule) and risk-based capital plans (including the results or report of any examination or analysis of an insurer performed pursuant to this part and any corrective order issued by the commissioner pursuant to examination or analysis) with respect to any domestic insurer or foreign insurer which are filed with the commissioner, constitute information that might be damaging to the insurer if made available to its competitors, and therefore shall be kept confidential by the commissioner. This information shall not be made public or be subject to subpoena, other than by the commissioner and then only to enforce actions taken by the commissioner pursuant to this part or any other provision of the insurance laws of this State.

(b) The comparison of an insurer's total adjusted capital to any of its risk-based capital levels is a regulatory tool which may indicate the need for possible corrective action with respect to the insurer and is not intended as a means to rank insurers generally. Therefore, except as otherwise required under this part, the

making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing as assertion, representation, or statement with regard to the risk-based capital levels of any insurer, or of any component derived in the calculation, by any insurer, agent, broker, or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited; provided that if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its risk-based capital levels (or any of them) or an inappropriate comparison of any other amount to the insurer's risk-based capital levels is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity of the statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

**§431:3-I Supplemental provisions.** The provisions of this part are supplemental to any other laws of this State, and shall not preclude or limit any other powers or duties of the commissioner under those laws, including, but not limited to chapter 431:15.

**§431:3-J Foreign insurers.** (a) Any foreign insurer, upon the written request of the commissioner, shall submit to the commissioner a risk-based capital report as of the end of the calendar year just ended by the later of:

- (1) The date a risk-based capital report would be required to be filed by a domestic insurer under this part; or
- (2) Fifteen days after the request is received by the foreign insurer.

Any foreign insurer, at the written request of the commissioner, shall promptly submit to the commissioner a copy of any risk-based capital plan that is filed with the insurance commissioner of any other state.

(b) In the event of a company action level event or regulatory action level event with respect to any foreign insurer as determined under the risk-based capital statute applicable in the state of domicile of the insurer, or if no risk-based capital provision is in force in that state, under this part, if the insurance commissioner of the state of domicile of the foreign insurer fails to require the foreign insurer to file a risk-based capital plan in the manner specified under the risk-based capital law of that state, or if no risk-based capital provision is in force in that state, under section 431:3-C, the commissioner may require the foreign insurer to file a risk-based capital plan with the commissioner. In this event, the failure of the foreign insurer to file a risk-based capital plan with the commissioner shall be grounds to order the insurer to cease and desist from writing new insurance business in this State.

(c) In the event of a mandatory control level event with respect to any foreign insurer, if no domiciliary receiver has been appointed with respect to the foreign insurer under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign insurer, the commissioner may make application to the circuit court of the first judicial circuit of this State under article 15 with respect to the liquidation of property of foreign insurers found in this State, and the occurrence of the mandatory control level event shall be considered adequate grounds for the application.

**§431:3-K Severability.** If any provision of this part, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect the provisions or application of this part which can be given effect without the invalid provision or application, and to that end the provisions of this part are severable.

**§431:3-L Notices.** All notices by the commissioner to an insurer which may result in regulatory action hereunder shall be effective upon dispatch if transmitted by registered or certified mail or, in the case of any other transmission, shall be effective upon the insurer's receipt of the notice.

**§431:3-M Phase-in provision.** For risk-based capital reports required to be filed with respect to 1994, the following requirements shall apply in lieu of sections 431:3-C, 431:3-D, 431:3-E, and 431:3-F:

- (1) In the event of a company action level event with respect to a domestic insurer, the commissioner shall take no regulatory action hereunder;
- (2) In the event of a regulatory action level event under sections 431:3-D(a)(1), (2), or (3), the commissioner shall take the actions required under section 431:3-C;
- (3) In the event of a regulatory action level event under sections 431:3-D(a)(4), (5), (6), (7), (8), or (9), or an authorized control level event, the commissioner shall take the actions required under section 431:3-D with respect to the insurer; and
- (4) In the event of a mandatory control level event with respect to an insurer, the commissioner shall take the actions required under section 431:3-E with respect to the insurer."

SECTION 2. Section 431:3-302, Hawaii Revised Statutes, is amended to read as follows:

**"§431:3-302 Annual and quarterly filings with the National Association of Insurance Commissioners.** (a) Each domestic, foreign, and alien insurer which is authorized to transact insurance in this State shall [annually on or before March 1 of each year] file annual and quarterly statements with the National Association of Insurance Commissioners (NAIC). Each insurer, annually on or before March 1 of each year, shall file a copy of its annual statement convention blank along with additional filings as prescribed by the commissioner for the preceding year. Each insurer shall file quarterly, on or before the forty-fifth day after each quarter, a copy of its quarterly statement with the commissioner and the NAIC. The information filed with the NAIC shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and the actuarial certification. Any amendments and [addendums] addenda to the statement filing subsequently filed with the commissioner shall also be filed with the NAIC. In addition to the printed annual statement blank, quarterly statements, and other reports addressed in this section, the annual filing for 1993 and thereafter and the quarterly filings for 1994 and thereafter shall include diskettes containing annual and quarterly statement information in the format prescribed by the NAIC annual and quarterly statement diskette filing specifications[, and must be submitted on or before the March 1 due date of]. The annual and quarterly diskette filings shall be due on the same dates as the corresponding printed information.

(b) Foreign insurers that are domiciled in a state which has a law substantially similar to subsection (a) shall be deemed in compliance with this section.”

SECTION 3. Section 431:5-307, Hawaii Revised Statutes, is amended to read as follows:

“§431:5-307 Standard valuation law; life. (a) This section shall be known as the standard valuation law.

(b) Reserve valuation:

- (1) The commissioner [shall], annually, shall value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance<sup>1</sup>, annuity<sup>2</sup>, and pure endowment contracts of every life insurer doing business in this State. The commissioner may certify the amount of any [such] reserves, specifying the mortality table or tables, rate or rates of interest, and methods (net level premium method or others) used in the calculation of the reserves. In calculating the reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves [herein] required under this section of any foreign or alien insurer, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction, when the valuation complies with the minimum standard [herein provided,] under this section, and if the official of [such] that state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when [such] the certification states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction[.];
- (2) The actual cost of making valuations under this section shall be assessed on the insurer, whose policies are so valued, by the commissioner[.]; and
- (3) Any [such] insurer [which], at any time, that has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided [may], with the approval of the commissioner, may adopt any lower standard of valuation, but not lower than the minimum [herein] provided[.] in this section.

(c) Computation of minimum standard:

- (1) Old policies: Except as otherwise provided in [item] paragraph (3), the minimum standard for the valuation of all [such] policies and contracts issued prior to the operative date of section 431:10D-104, shall be that provided by the laws in effect immediately prior to January 1, 1956[.];
- (2) Except as otherwise provided in [item] paragraph (3), the minimum standard for the valuation of all [the] policies and contracts issued on or after the operative date of section 431:10D-104, shall be the [commissioners] commissioner's reserve valuation methods defined in subsections (d), (e), and (h), three and one-half per cent interest; in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after June 1, 1976, four per cent interest; for [such] the policies issued prior to June 1, 1979, five and



one-half per cent interest for single premium life insurance policies and four and one-half per cent interest for all other [such] policies issued on or after June 1, 1979; and the following tables:

- (A) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies — the Commissioners 1941 Standard Ordinary Mortality Table for [such] the policies issued prior to the operative date of section 431:10D-104(e)(8), and the Commissioners 1958 Standard Ordinary Mortality Table for the policies issued on or after the operative date; provided that for any category of [such] the policies issued on female risks, all modified net premiums and present values referred to in this section may be calculated according to an age not more than six years younger than the actual age of the insured; and for [such] the policies issued on or after the operative date of section 431:10D-104(e)(8), the Commissioners 1980 Standard Ordinary Mortality Table, or at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or any ordinary mortality table[,] adopted after 1980 by the National Association of Insurance Commissioners[,] that is approved by [regulation promulgated] rules adopted by the commissioner for use in determining the minimum standard of valuation for [such] policies[.];
- (B) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies — the 1941 Standard Industrial Mortality Table for [such] the policies issued prior to the operative date of section 431:10D-104(e)(7), and for the policies issued on or after [such] the operative date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table[,] adopted after 1980 by the National Association of Insurance Commissioners, that is approved by [regulation promulgated] rules adopted by the commissioner for use in determining the minimum standard of valuation for [such] those policies[.];
- (C) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in [such] the policies — the 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, ultimate, or any modification of either of these tables approved by the commissioner[.];
- (D) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in [such] the policies — the Group Annuity Mortality Table for 1951, any modification of the table approved by the commissioner[,] or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts[.];
- (E) For total and permanent disability benefits in or supplementary to ordinary policies or contracts — for policies or contracts issued after December 31, 1965, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of

the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners[,] that are approved by [regulation promulgated] rules adopted by the commissioner for use in determining the minimum standard of valuation for [such] the policies; for policies or contracts issued after December 31, 1960, and prior to January 1, 1966, either the tables or, at the option of the insurer, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any [such] table [shall], for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies[.];

- (F) For accidental death benefits in or supplementary to policies — for policies issued after December 31, 1965, the 1959 Accidental Death Benefits Table or any accidental death benefits table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by [regulation promulgated] rules adopted by the commissioner for use in determining the minimum standard of valuation for [such] the policies; for policies issued after December 31, 1960, and prior to January 1, 1966, either the table or, at the option of the insurer, the Inter-company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies[.]; and
- (G) For group life insurance, life insurance issued on the standard basis, and other special benefits — [such] any tables [as] that may be approved by the commissioner[.];
- (3) Except as provided in [item] paragraph (4), the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph [as defined herein], and for all annuities and pure endowments purchased on or after [such] the operative date under group annuity and pure endowment contracts, shall be the [commissioners] commissioner's reserve valuation methods defined in subsections (d) and (e) and the following tables and interest rates:
- (A) For individual annuity and pure endowment contracts issued prior to June 1, 1979, excluding any disability and accidental death benefits in [such] the contracts — the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner, and six per cent interest for single premium immediate annuity contracts, and four per cent interest for all other individual annuity and pure endowment contracts[.];
- (B) For individual single premium immediate annuity contracts issued on or after June 1, 1979, excluding any disability and accidental death benefits in [such] the contracts — the 1971 Individual Annuity Mortality Table, or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by

[regulation promulgated] rules adopted by the commissioner for use in determining the minimum standard of valuation for [such] the contracts, or any modification of these tables approved by the commissioner, and seven and one-half per cent interest[.];

- (C) For individual annuity and pure endowment contracts issued on or after June 1, 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in [such] the contracts — the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by [regulation promulgated] rules adopted by the commissioner for use in determining the minimum standard of valuation for [such] the contracts, or any modification of these tables approved by the commissioner, and five and one-half per cent interest for single premium deferred annuity and pure endowment contracts and four and one-half per cent interest for all other [such] individual annuity and pure endowment contracts[.]; and
- (D) For all annuities and pure endowments purchased on or after June 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in [such] the contracts — the 1971 Group Annuity Mortality Table or any group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by [regulation promulgated] rules adopted by the commissioner for use in determining the minimum standard of valuation for [such] the annuities and pure endowments, or any modification of these tables approved by the commissioner and seven and one-half per cent interest.

After June 1, 1976, any insurer may file with the commissioner a written notice of its election to comply with [the provisions of] this paragraph after a specified date before January 1, 1979, which shall be the operative date of this paragraph for [such] the insurer; provided that an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no [such] election, the operative date of this paragraph for [such] the insurer shall be January 1, 1979[.]; and

(4) Applicability of this section:

- (A) The interest rates used in determining the minimum for the valuation of:
  - (i) All life insurance policies issued in a particular calendar year, on or after the operative date of section 431:10D-104(e)(8)[.];
  - (ii) All individual annuity and pure endowment contracts issued in a particular calendar year after December 31, 1982[.];
  - (iii) All annuities and pure endowments purchased in a particular calendar year after December 31, 1982, under group annuity and pure endowment contracts[.]; and
  - (iv) The net increase, if any, in a particular calendar year after 1982, in amounts held under guaranteed interest

contracts shall be the calendar year statutory valuation rates as defined in this paragraph[.];

- (B) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of one per cent:

- (i) For life insurance,

$$[I = .03 + W (R - .03) + \frac{W}{2} (R - .09);]$$

$$I = .03 + W (R_1 - .03) + \frac{W}{2} (R_2 - .09);$$

- (ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I = .03 + W (R - .03)$$

where  $R_1$  is the lesser of  $R$  and  $.09$ ,  $R_2$  is the greater of  $R$  and  $.09$ ,  $R$  is the reference interest rate defined in this section, and  $W$  is the weighting factor defined in this [paragraph] section;

- (iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in clause (ii), the formula for life insurance stated in clause (i) shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten years, and the formula for single premium immediate annuities stated in clause (ii) shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less;
- (iv) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in clause (ii) shall apply; and
- (v) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in clause (ii) shall apply[.];
- (C) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one per cent, the calendar year statutory valuation interest rate for [such] those life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding

sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when section 431:10D-104(e)(8) becomes operative[.];

(D) The weighting factors referred to in the formulas stated above are given in the following tables:

(i) Weighting factors for life insurance:

Guarantee Duration (Years)	<u>Weighting Factors</u>
10 or [less] fewer	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy, or under options to convert to plans of life insurance with premium rates or nonforfeiture values, or both, which are guaranteed in the original policy;

- (ii) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: .80; and
- (iii) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in clause (ii), shall be as specified in the tables below, according to the rules and definitions stated below:

Table I:

For annuities and guaranteed interest contracts valued on an issue year basis;

Guarantee Duration (Years)	<u>Weighting Factor for Plan Type</u>		
	<u>A</u>	<u>B</u>	<u>C</u>
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

Table II:

For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in clause (i) increased by:

	<u>Plan Type</u>		
	<u>A</u>	<u>B</u>	<u>C</u>
	.15	.25	.05

Table III:

		Plan Type		
		A	B	C

For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase, and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in Table I or derived in Table II increased by:

	.05	.05	.05
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For other annuities with cash settlement options with guaranteed interest contracts [with] and cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence. Plan type as used in the above tables is defined as follows:

Plan Type A: At any time the policyholder may withdraw funds only: (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; (2) without [such] adjustment but in installments over five years or more; (3) as an immediate life annuity; or (4) no withdrawal permitted[.];

Plan Type B: Before expiration of the interest rate guarantee, the policyholder may withdraw funds only: (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; (2) without [such] adjustment but in installments over five years or more; or (3) no withdrawal permitted. At the end of the interest rate guarantee, funds may be withdrawn without [such] adjustment in a single sum or in installments over less than five years[.];

Plan Type C: [Policyholder] The policyholder may withdraw funds before expiration of the interest rate guarantee in a single sum or in installments over less than five years either: (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company[.]; or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change

in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options [must] shall be valued on an issue year basis. As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund[.];

- (E) The reference interest rate referred to in [subsection] paragraph (4)(B) shall be defined as follows:
- (i) For all life insurance, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;
  - (ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;
  - (iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in clause (ii), with guarantee duration in excess of ten years, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;
  - (iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in clause (ii), with guarantee duration of ten years or less, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.;
  - (v) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve months,

ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.; and

- (vi) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in clause (ii), the average over a period of twelve months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average - Monthly Average Corporates, as published by Moody's Investors Service, Inc.; and

- (F) Alternative method for determining references interest rates: In the event that Moody's Corporate Bond Yield Average - Monthly Average Corporates is no longer published by Moody's Investors Service, Inc., or in the event that the National Association of Insurance Commissioners determines that Moody's Corporate Bond Yield Average - Monthly Average Corporates as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by [regulation promulgated] rules adopted by the commissioner, may be substituted.

(d) [Commissioners Reserve Valuation Methods:] Commissioner's reserve valuation methods:

- (1) Except as otherwise provided in subsections (e) and (h), reserves, according to the [commissioners] commissioner's reserve valuation methods, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of [such] the future guaranteed benefits provided for by the policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be the uniform percentage of the respective contract premiums for [such] the benefits (excluding extra premiums on a substandard policy) that the present value, at the date of issue of the policy, of all [such] the modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of subparagraph (A) over subparagraph (B) as follows:

- (A) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one a year payable on the first and each subsequent anniversary of the policy on which a premium falls due; provided that the net level annual<sup>2</sup> shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age of issue of [such] the policy.
- (B) A net one-year term premium for the benefits provided for in the first policy year.



Provided that for any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year, and no comparable additional benefit is provided in the first year for [such] the excess, which provides an endowment benefit, a cash surrender value, or a combination thereof, in an amount greater than [such] the excess premium, the reserve, according to the [commissioner] commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than [such] the excess premium, [shall,] except as otherwise provided in subsection (h), shall be the greater of the reserve as [such] the policy anniversary calculated as described [in the foregoing provisions of this subsection] above and the reserve as of [such] the policy anniversary calculated as described [in those provisions], but with:

- (i) The value defined in subparagraph (A) being reduced by fifteen per cent of the amount of [such] the excess first year premium;
- (ii) All present values benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date;
- (iii) The policy being assumed to mature on [such] that date as an endowment; and
- (iv) The cash surrender value provided on [such] that date being considered as an endowment benefit.

In making the above comparison, the mortality and interest bases stated in [subsections] subsection (c)(2) and [(c)] (3) shall be used[.]; and

- (2) Reserve according to the [commissioners] commissioner's reserve valuation methods for:
  - (A) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;
  - (B) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended;
  - (C) Disability and accidental death benefits in all policies and contracts; and
  - (D) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts[.];

shall be calculated by a method consistent with the [principals] principles of this subsection [(d)].

- (e) This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an

employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the [commissioners] commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in [such] those contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by [such] those contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of [such] the contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in [such] the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of [such] the contracts to determine nonforfeiture values.

(f) Minimum aggregate reserves: In no event shall an insurer's aggregate reserves for all life insurance policies excluding disability and accidental death benefits, issued on or after the operative date of section 431:10D-104, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (d), (e), (h), and (i), and the mortality tables and rates of interest used in calculating nonforfeiture benefits for [such] those policies. In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by subsection (j).

(g) Optional reserves bases: Reserves for any category of policies, contracts, or benefits as established by the commissioner, issued on or after the operative date of section 431:10D-104, may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for the category than those calculated according to the minimum standard herein provided. The rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rates of interest used in calculating any nonforfeiture benefits provided for therein. Any [such] company which at any time shall have adopted any standard valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided, [may,] with the approval of the commissioner, may adopt any lower standard of valuation, but not lower than the minimum herein provided[.]; provided that for the purposes of this section, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by subsection (j) shall not be deemed to be the adoption of a higher standard of valuation.

(h) Minimum reserve: If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for [such] that policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for [such] the policy or contract, or the reserve calculated by the method actually used for [such] the policy or contract using the minimum standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for

which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in [subsections] subsection (c)(1), [(c) (2)], and [(c) (4)].

Provided; provided that for any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for [such] the excess and which provides an endowment benefit or a cash surrender value, or a combination thereof, in an amount greater than [such] the excess premium, [the foregoing provisions of] this subsection shall be applied as if the method actually used in calculating the reserve for [such] the policy were the method described in subsection (d), ignoring the second paragraph of that subsection. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection (d), including [the second paragraph of that] subsection[,] (d)(2) and the minimum reserve calculated in accordance with this subsection.

(i) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (d), (e), and (h), the reserves which are held under any such plan must:

- (1) Be appropriate in relation to the benefits and the pattern of premiums for that plan[,] and
- (2) Be computed by a method which is consistent with the principles of this section, as determined by [regulations promulgated] rules adopted by the commissioner.

(j) The actuarial opinion of reserves and this subsection shall become effective December 31, 1995.

- (1) Every life insurance company doing business in this State shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner, by rules, are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with the applicable laws of this State. The commissioner, by rules, shall define the specifics of this opinion and add any other items deemed to be necessary to its scope;

- (2) Actuarial analysis of reserves and assets supporting the reserves:

(A) Every life insurance company, except as exempted by or pursuant to rules, also shall include annually in the opinion required by paragraph (1), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rules, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under, and expenses associated with, the policies and contracts; and

- (B) The commissioner may provide, by rules, for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this section;
- (3) Each opinion required by paragraph (2) shall be governed by the following:
- (A) A memorandum, in form and substance acceptable to the commissioner as specified by rules, shall be prepared to support each actuarial opinion; and
  - (B) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by rules or if the commissioner determines that the supporting memorandum provided by the insurer fails to meet the standards prescribed by rules or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the insurer to review the opinion and the basis for the opinion and prepare any supporting memorandum that is required by the commissioner; and
- (4) Every opinion shall be governed by the following:
- (A) The opinion shall be submitted with the annual statement reflecting the valuation of reserve liabilities for each year ending on or after December 31, 1995;
  - (B) The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by rules;
  - (C) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on any addition standards that the commissioner may prescribe by rules;
  - (D) In the case of an opinion required to be submitted by a foreign or alien insurer, the commissioner may accept the opinion filed by that insurer with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to an insurer domiciled in this State;
  - (E) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in the regulations adopted by the American Academy of Actuaries;
  - (F) Except in cases of fraud or wilful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurer and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion; and
  - (G) Any memorandum in support of the opinion, and any other material provided by the insurer to the commissioner in connection therewith, shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section, or by rules adopted hereunder; provided that the memorandum or other material may otherwise be released by the commissioner with the written consent of the insurer or be released to the American Academy of

Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the insurer in its marketing material or is cited before any governmental agency, other than a state insurance department, or is released by the insurer to the news media, all portions of the confidential memorandum shall no longer be confidential.”

SECTION 4. Section 431:19-107, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In addition, each association captive and risk retention captive shall file an annual statement on or before March 1 each year, in accordance with statutory accounting practices, which shall be a true statement of its financial condition, transactions, and affairs as of the immediately preceding December 31, in general form and [context] content as approved by the National Association of Insurance Commissioners, verified by oaths of at least two of the insurer’s principal officers. Each risk retention group captive shall file with the National Association of Insurance Commissioners, on or before March 1 of each year, a copy of its annual convention blank along with any additional filings as prescribed by the commissioner for the preceding year.”

SECTION 5. Section 431:19-115, Hawaii Revised Statutes, is amended to read as follows:

**“§431:19-115 Laws applicable.** No insurance laws of this State other than those contained in this article, or contained in specific references contained in this article, shall apply to pure captive insurance companies. In addition to this article, all of the other insurance laws of this State shall apply to association captive insurance companies, including risk retention insurance companies, unless these other laws are inconsistent with this article.”

SECTION 6. Act 280, Session Laws of Hawaii 1993, is amended by amending section 64 to read as follows:

“SECTION 64. This Act shall take effect on July 1, 1993, except that sections 19, 21, [25,] 38, and 41 shall take effect on June 30, 1994; provided that the director of finance shall transfer to the credit of the state general fund:

- (1) On July 1, 1993, all unexpended or unencumbered balances remaining in any special or revolving fund scheduled for repeal on July 1, 1993, under this Act; and
- (2) On June 30, 1994, all unexpended or unencumbered balances remaining in any special or revolving fund scheduled for repeal on June 30, 1994, under this Act.”

SECTION 7. Section 25 of Act 280, Session Laws of Hawaii, 1993, is repealed.

[“SECTION 25. Section 431:2-307, Hawaii Revised Statutes, is amended to read as follows:

**“§431:2-307 [Insurance examiners revolving fund.**

(a) The commissioner may establish a separate fund designated as the insurance examiners revolving fund.

(b) The funds shall be used to compensate independent contractor examiners. Independent contractor examiners may be reimbursed or compensated for:

- (1) Actual travel expenses in amounts customary for such expenses and approved by the commissioner;
- (2) A reasonable living expense allowance at a rate customary for such expenses and approved by the commissioner; and
- (3) Per diem compensation at a rate customary for such compensation as approved by the commissioner.

(c) The funds may also be used to reimburse insurance division staff examiners for the following expenses necessarily incurred on account of an examination and the examiners' education and training:

- (1) Actual travel expenses in amounts customary for such expenses and approved by the commissioner;
- (2) A reasonable living expense allowance at a rate customary for such expenses and approved by the commissioner; and
- (3) Any fee or tuition necessary to attend educational and training conferences, workshops, seminars, and any similar event of this nature.

(d) The funds may also be used for other expenses relating to examinations of insurance companies.

(e) All persons receiving any reimbursement or compensation from the insurance examiners revolving fund shall submit to the commissioner for approval a detailed account of all expenses and compensation necessarily incurred. Persons shall not receive or accept any additional emolument on account of an examination. In the case of an examination, any reimbursement or compensation made by the fund and approved by the commissioner shall be charged to the person being examined by the commissioner and all receipts shall be credited to the fund.

(f) Moneys in the insurance examiners revolving fund shall not revert to the general fund.

(g) Each authorized insurer shall deposit at a time determined by the commissioner the sum of \$200 with the commissioner to be credited to the insurance examiners revolving fund.] **Reimbursement and compensation of examiners; source of funds; disposition of receipts.**

(a) All moneys necessary for the compensation and reimbursement of independent contractor examiners and insurance division staff examiners for actual travel expenses, reasonable living expenses, and per diem expenses, at customary rates approved by the commissioner shall be allocated by the legislature through appropriations out of the state general fund. The department shall include in its budgetary request for each upcoming fiscal period, the amounts necessary to effectuate the purposes of this section.

(b) Each authorized insurer shall deposit at a time determined by the commissioner the sum of \$200 with the commissioner for deposit into the state general fund.

(c) All moneys, fees, and other payments received by the commissioner under this part shall be deposited to the credit of the state general fund.””]

SECTION 8. In codifying the new part added to article 3 of chapter 431, Hawaii Revised Statutes, by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in the new sections' designations in this Act.

## ACT 191

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

SECTION 10. This Act shall take effect on July 1, 1994 and be repealed on June 30, 1996; provided that any statutory or session law material in this Act in existence on June 30, 1994, shall be reenacted on July 1, 1996 in the same form in which it existed on June 30, 1994.

(Approved June 21, 1994.)

### Notes

1. Prior to amendment "policies" appeared here.
2. Prior to amendment "premium" appeared here.

## ACT 191

H.B. NO. 3431

A Bill for an Act Relating to the Division of Consumer Advocacy.

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

SECTION 1. Section 269-52, Hawaii Revised Statutes, is amended to read as follows:

**"§269-52 Division of consumer advocacy; personnel.** There shall be a division of consumer advocacy within the department of commerce and consumer affairs to provide administrative support to the director of commerce and consumer affairs acting in the capacity of consumer advocate. The director may employ and at pleasure dismiss an executive administrator, who shall be exempt from chapters 76 and 77, may define the executive administrator's powers and duties, and fix the executive administrator's compensation. The director may employ engineers, accountants, investigators, clerks, and stenographers[, and other assistants] as may be necessary for the performance of the consumer advocate's functions, [subject to] in accordance with chapters 76 and 77[.]; provided that the director may employ up to two telecommunications or energy utility planning analysts exempt from chapters 76 and 77: and provided further that each analyst shall possess at least the minimum qualifications required of comparable experts in the respective industries. The annual compensation for each analyst shall not be more than \$55,000."

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

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

(Approved June 21, 1994.)

## ACT 192

H.B. NO. 3456

A Bill for an Act Relating to Financial Exemptions for the Community Hospitals.

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

SECTION 1. The legislature finds that the pilot project to foster the autonomous operation of the community hospitals, as set forth in Act 223, Session Laws of Hawaii 1990, as amended by Act 187, Session Laws of Hawaii 1992, and in Act 211, Session Laws of Hawaii 1993, has contributed effectively to expediting and improving the delivery of health care services by Hawaii's public hospital system.

This Act provides exemptions from statutes, relating to finance, that have been identified as impediments to the autonomous operation of the community hospitals.

SECTION 2. Chapter 323, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§323- Collections revolving funds.** (a) There are established three collections revolving funds, one fund for Maui Memorial Hospital, one fund for Hilo Hospital, and one fund for Kona Hospital, to expedite the collection of patient bills and the refunding of credit balances. Payments of bills of less than \$1,000, from patients and health insurance providers, shall be deposited into the revolving fund. Expenditures from the revolving fund shall be used for the purpose of making refunds of credit balances of less than \$1,000.

(b) The department of health shall provide an annual report to the governor and the legislature describing all transactions and activities involved in the administration of each of the three collections revolving funds. If, at the end of a fiscal year, the balance of any one of the collections revolving funds exceeds \$100,000, the amount in excess of \$100,000 shall be transferred by the director of health to the appropriate special fund established under section 323-73 for the associated public health facility."

SECTION 3. Section 323-70, Hawaii Revised Statutes, is amended to read as follows:

**"§323-70 Revenues.** (a) Pursuant to chapter 91, the division ~~[[ ]shall[[ ]]~~ impose and collect rates, rents, fees, and charges for the use of its public health facilities and their derived services, and shall revise these rates, rents, fees, and charges from time to time whenever necessary so that all public health facilities, services, and projects of the division may provide appropriate care to the community.

(b) Notwithstanding subsection (a) and without regard to chapter 91, the division may:

- (1) Reduce rates, rents, fees, and charges; and
- (2) Establish rates for new medical services that are comparable to rates charged by private hospitals in Hawaii;

provided that the division shall give public notice of the revisions by publishing a summary statement of the substance of the proposed revisions in a newspaper of general circulation in the State not less than thirty days before the revisions take effect. Following this notice, the division shall review the proposed rates with an appropriate body that includes representation from health benefit plans.

(b) (c) Nothing in this chapter shall preclude the making of appropriations to the division, or the use of funds derived from the sale of stocks, bonds, or other assets in the possession of the division, to pay all or part of the costs of construction or maintenance, or both, of any or all facilities, services, and projects of the division; provided that the rates, rents, fees, and charges imposed at public health facilities that are part of a system of public health facilities for which



## ACT 192

revenue bonds have been issued shall not be less than the rates, rents, fees, and charges required to enable the department to comply with section 39-61 and any resolution or certificate authorizing and securing the revenue bonds.”

SECTION 4. Section 323-73, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [Any other law to the contrary notwithstanding, each] Each public health facility shall place its revenues and all other moneys collected, acquired, or made available for the use of that facility, into a special fund to be used for the payment of its lawful operating expenditures[.], except that:

- (1) Any moneys received from the federal government or private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received;
- (2) With the concurrence of the director of finance, moneys in trust or revolving funds administered by the community hospitals may be deposited in depositories other than the state treasury; and
- (3) Amounts of less than \$1,000 collected from patients and health insurance providers shall be deposited into the appropriate collections revolving fund established under section 323-\_\_\_\_\_.

At the beginning of each quarterly allotment period, the director shall assess from each hospital special fund an amount equal to two per cent of the moneys in the hospital special fund and deposit those amounts into the facility administration fund established in subsection (b). At the end of each quarterly allotment period, the director shall transfer all moneys remaining in a hospital special fund not required for the lawful operating expenditures of the hospital for that quarterly allotment period into the facility administration fund; provided that public health facilities that do not receive general fund augmentation may retain not more than twenty-five per cent of their unrequired special fund revenues in their respective hospital special funds for payment of their lawful operating expenditures. The director shall determine the percentage that a public health facility not supported by general funds may retain in its hospital special fund. The amounts the director may transfer shall include all unrequired special fund balances from prior years.”

SECTION 5. The division of community hospitals of the department of health may purchase data processing and telecommunications equipment without the review and approval of the director of finance, if the purchase of all data processing or telecommunications equipment per facility does not exceed \$25,000 per year.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval and shall be repealed on June 30, 1996; provided that sections 323-70 and 323-73, Hawaii Revised Statutes, are reenacted in the form in which they read on the day before the approval of this Act.

(Approved June 21, 1994.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 193

H.B. NO. 3458

A Bill for an Act Relating to Procurement by the Community Hospitals.

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

SECTION 1. The legislature finds that the pilot autonomy project, as set forth in Act 223, Session Laws of Hawaii 1990, as amended by Act 187, Session Laws of Hawaii 1992, and Act 211, Session Laws of Hawaii 1993, has contributed effectively to expediting and improving the delivery of health care services by Hawaii's public hospital system. The pilot autonomy project includes exemption for eight of the community hospitals from sections 103-22 and 103-41 through 103-48, Hawaii Revised Statutes, competitive bidding requirements, until June 30, 1996, in order to expedite and improve the delivery of health care services. However, Act 8, Special Session Laws of Hawaii 1993, renumbered these sections dealing with competitive bidding requirements.

The purpose of this Act is to resolve the technical conflicts between Act 211, Session Laws of Hawaii 1993, which extended the autonomy pilot project for the community hospitals, and Act 8, Special Session Laws of Hawaii 1993, which established a new procurement law.

SECTION 2. Act 8, Special Session Laws of Hawaii 1993, is amended by amending section -203 of section 2 to read as follows:

“§ **-203 Chief procurement officers.** The chief procurement officer for each of the following state entities and the several counties shall be:

- (1) The judiciary—the administrative director of the courts;
- (2) The senate—the president of the senate;
- (3) The house of representatives—the speaker of the house of representatives;
- (4) The office of Hawaiian affairs—its board of trustees;
- (5) The several counties—the respective finance directors of the several counties;
- (6) The University of Hawaii—the president of the University of Hawaii;
- (7) The department of education—the superintendent of education; [and]
- (8) The division of community hospitals within the department of health—the deputy director for community hospitals; and
- [(8)] (9) The remaining departments of the executive branch of the State and all governmental bodies administratively attached to them—the administrator of the procurement office of the department of accounting and general services.

For purposes of applying this chapter to the judiciary, houses of the legislature, office of Hawaiian affairs, department of education, division of community hospitals within the department of health, University of Hawaii, and the several counties, unless otherwise expressly provided, “State” shall mean “judiciary,” “state senate,” “state house of representatives,” “office of Hawaiian affairs,” “department of education,” “division of community hospitals within the department of health,” “University of Hawaii,” and “county,” respectively.”

## ACT 194

SECTION 3. Act 211, Session Laws of Hawaii 1993, is amended by amending section 6 to read as follows:

“SECTION 6. In order to achieve the benefits of a decentralized and relatively unencumbered autonomous operation, the hospitals specified in section 2 shall be granted flexibility in the hiring of personnel and the collection and disbursement of funds by being exempt from sections [103-22 and 103-41 through] 103-42 to 103-48, Hawaii Revised Statutes, relating to advertising for bids and purchases to be made in Hawaii whenever public moneys are expended for the duration of the pilot project.”

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

SECTION 5. This Act shall take effect upon its approval; provided that section 2 shall be repealed on June 30, 1996, and section 103D-203 shall be reenacted in the form in which it existed on the day before the effective date of this Act.

(Approved June 21, 1994.)

## ACT 194

H.B. NO. 3464

A Bill for an Act Relating to Correctional Industries.

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

SECTION 1. Section 354D-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The advisory committee shall consist of [seven] nine members who shall be appointed by the governor for staggered terms of two years in accordance with section 26-34. Each term shall commence on July 1 of the year of appointment and expire on the second June 30 following that date. The governor shall designate a member to be chairperson of the advisory committee. The director or a designee shall serve as ex officio member of the advisory committee. In establishing the advisory committee, the governor shall appoint at least two members representing private sector businesses and two members representing labor unions. The members shall serve without compensation but shall be reimbursed for expenses, including travel expenses, that are necessary for the performance of their duties.”

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

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

(Approved June 21, 1994.)

## ACT 195

H.B. NO. 3470

A Bill for an Act Relating to the Release of Pretrial Inmates.

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

SECTION 1. Act 305, Session Laws of Hawaii 1993, is amended by amending section 1 to read as follows:

“SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**§353- Release of pretrial inmates to prevent overcrowding.** (a) Notwithstanding the provisions of chapter 804 and any other law to the contrary and except as provided in subsection (b), the director or the director's designee may order the release of pretrial inmates on recognizance to prevent overcrowding when a community correctional center has reached capacity, as determined by the director. The director's order shall supersede and have the same force and effect as an order entered by a court pursuant to chapter 804. A copy of the director's order shall be filed with the court in which the charge against the pretrial<sup>1</sup> inmate is pending.

(b) No person who has been denied bail or whose bail has been set at more than \$5,000 pursuant to chapter 804, or who has been charged with or convicted of or is on probation or parole for a serious crime, as defined in section 804-3, involving violence against a person shall be eligible for release pursuant to this section.

(c) The power to release a pretrial<sup>2</sup> inmate pursuant to this section is granted solely for the purpose of managing the population of the community correctional centers and nothing herein shall be construed as granting any person the right to be released. An order releasing a pretrial<sup>2</sup> inmate pursuant to this section shall not operate to dismiss or otherwise terminate any charges then pending against the pretrial<sup>1</sup> inmate.

(d) The State, its officers, and employees, 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 the State, its officers, and employees, in an official capacity under this section.

(e) The director shall adopt rules in accordance with chapter 91 for the release of pretrial<sup>1</sup> inmates pursuant to this section.

**§353- Terms and conditions of release; violations; sanctions.** (a) A pretrial inmate released pursuant to section 353- shall be subject to the conditions stated in section 804-7.4. In addition, the director may impose any of the conditions which a court is authorized to impose pursuant to section 804-7.1 and shall impose any conditions contained in any court order superseded by the director's order.

(b) [Intentional violations of the conditions of release shall be disposed of as provided in sections 804-7.2 and 804-7.3.] Every pretrial inmate released under this section shall be subject to the express condition, to be set forth in the official written notification of release, that release may be revoked by order of the director or the director's designee in the event that the pretrial inmate violates any terms or conditions of the release.

Upon receipt of specific information from an intake service center worker that a pretrial inmate has violated any of the terms or conditions of the release,

## ACT 196

the director or the director's designee may order the arrest and temporary return to custody of the pretrial inmate for the purpose of ascertaining whether or not there is sufficient cause to warrant the revocation of the pretrial inmate's release under section 353-\_\_\_\_\_ . The arrest order shall state the alleged violation which gave rise to its issuance.

Upon the retaking of the pretrial inmate into custody, hearing on the alleged violation shall be conducted promptly for the purpose of ascertaining whether or not there is sufficient cause to warrant the revocation of the pretrial inmate's release. The pretrial inmate shall have, with respect to the revocation hearing, those rights set forth in subsection 706-670 (3)(a), (3)(b), (3)(c), and (3)(d).

If sufficient cause for the alleged violation of terms or conditions of release is found at the hearing, the director or director's designee may impose different or additional conditions on the pretrial inmate's release or revoke the pretrial inmate's release. If sufficient cause is not found, the pretrial inmate shall be released from custody subject to all of the original terms and conditions of release.

Notice of reincarceration shall be filed with the court."

SECTION 2. No later than twenty days prior to the convening of the regular session of 1995, the director shall submit a written report on the recidivism rate of pretrial inmates released under this program.

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

SECTION 4. This Act shall take effect upon its approval, and shall be repealed on June 30, 1995.

(Approved June 21, 1994.)

### Notes

1. "Pretrial" should be underscored.
2. Prior to amendment "an" appeared here.

## ACT 196

H.B. NO. 3472

A Bill for an Act Relating to the Employees' Retirement System.

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

SECTION 1. The purpose of this Act is to increase the retirement allowance of public safety investigations staff investigators as defined in section 2.

Currently, public safety investigations staff investigators are noncontributory members of the employees' retirement system and entitled to a retirement allowance of one and one-fourth per cent of their respective average final compensation.

Under this Act, public safety investigations staff investigators as defined in section 2 of this Act shall be designated as contributory members of the employees' retirement system and entitled to a retirement allowance of two and one-half per cent of their respective average final compensation. As contributory members, they will be making social security deductions and be contributing

twelve and two-tenths per cent of their monthly compensation for this increased retirement allowance.

SECTION 2. Section 88-21, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Public safety investigations staff investigators” means those employees in the investigations staff office of the department of public safety who have been conferred police powers by the director of public safety in accordance with section 353C-4 and are in the positions of investigator I to VII.”

SECTION 3. Section 88-45, Hawaii Revised Statutes, is amended to read as follows:

**“§88-45 Employee contributions.** After June 30, 1988, each class A and class B member shall contribute seven and eight-tenths per cent of the member’s compensation to the annuity savings fund; provided that after June 30, 1989, all firefighters, police officers, corrections officers, investigators of the departments of the prosecuting attorney and of the attorney general, narcotics enforcement investigators, [and] water safety officers, and public safety investigations staff investigators shall contribute twelve and two-tenths per cent of their compensation to the annuity savings fund for service in that capacity.”

SECTION 4. Section 88-47, Hawaii Revised Statutes, is amended to read as follows:

**“§88-47 Membership.** (a) There shall be three classes of members in the system to be known as class A, class B, and class C, defined as follows:

- (1) Class A shall consist of members covered by section 88-74(3), those members whose salaries are set forth in sections 26-52 and 26-53, investigators of the department of the attorney general, narcotics enforcement investigators, water safety officers, public safety investigations staff investigators, and those members in service prior to July 1, 1984, including those who are on approved leave of absence, who are covered by Title II of the Social Security Act on account of service creditable under this part. This class shall consist of:
  - (A) All employees who enter membership after June 30, 1957, except employees in positions to which coverage under Title II of the Social Security Act is not extended;
  - (B) All employees who were members on July 1, 1957, who elected to be covered by the Social Security Act; and
  - (C) All former class A retirants who return to employment after June 30, 1984, requiring the retirant’s active membership;
- (2) Class B shall consist of all members who are not class A or class C members; and
- (3) Except for members covered by section 88-74(3), those members whose salaries are set forth in sections 26-52 and 26-53, investigators of the department of the attorney general, narcotics enforcement investigators, [and] water safety officers, and public safety investigations staff investigators, class C shall consist of all employees in positions covered by Title II of the Social Security Act who:
  - (A) First enter service after June 30, 1984;

- (B) Reenter service after June 30, 1984, without vested benefit status as provided in section 88-96(b);
- (C) Make the election to become a class C member as provided in part VII; or
- (D) Are former class C retirants who return to service requiring the retirant's active membership.

(b) None of the provisions of this part shall apply to class C members except as specifically provided in part VII."

SECTION 5. Section 88-74, Hawaii Revised Statutes, is amended to read as follows:

**"§88-74 Allowance on service retirement.** Upon retirement from service, a member shall receive a retirement allowance as follows:

- (1) If the member has attained age fifty-five, a retirement allowance of two per cent of the member's average final compensation multiplied by the total number of years of the member's credited service as a class A and B member, plus a retirement allowance of one and one-fourth per cent of the member's average final compensation multiplied by the total number of years of prior credited service as a class C member; provided that:
  - (A) 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 firefighter, police officer, or an investigator of the department of the prosecuting attorney;
  - (B) After June 30, 1977, 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;
  - (C) After June 16, 1981, if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited as an investigator of the department of the attorney general;
  - (D) After June 30, 1989, if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited as a narcotics enforcement investigator;
  - (E) After June 30, 1992, if the member has at least ten years of credited service, a part of which is credited as a corrections officer or narcotics enforcement investigator; provided the member is employed with the department of public safety, is promoted or accepts a position as a [public safety internal affairs investigator,] public safety investigations staff investigator, and retires from that department; [and]
  - (F) After December 31, 1993, 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 water safety officer; and
  - (G) After June 30, 1994, if the member has at least ten years of credited service, a part of which is credited as a public safety investigative staff investigator and the member is employed with the department of public safety and retires from that department;

then for each year of service as a firefighter, police officer, corrections officer, investigator of the department of the prosecuting

attorney, investigator of the department of the attorney general, narcotics enforcement investigator, [or] water safety officer, or public safety investigations staff investigator, the retirement allowance shall be two and one-half per cent of the member's average final compensation. The maximum retirement allowance for those members shall not exceed eighty per cent of the member's average final compensation. If the member has not attained age fifty-five, the member's retirement allowance shall be computed as though the member had attained age fifty-five, reduced in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary; provided that no reduction shall be made if the member has at least twenty-five years of credited service as a firefighter, police officer, corrections officer, investigator of the department of the prosecuting attorney, investigator of the department of the attorney general, narcotics enforcement investigator, public safety investigations staff investigator, sewer worker, or water safety officer, of which the last five or more years prior to retirement is credited service in such capacities;

- (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, the member may accept refund at the time of retirement or, in lieu thereof, receive in addition to the retirement allowance provided in paragraph (1), an annuity that is the actuarial equivalent of the additional contributions with regular interest; or
- (3) If the member has credited service as a judge, an elective officer, or the chief clerk, assistant clerk, sergeant at arms, or assistant sergeant at arms of either house of the legislature, the member's retirement allowance shall be computed on the following basis:
  - (A) Irrespective of age, for each year of credited service as a judge, an elective officer, or the chief clerk, assistant clerk, sergeant at arms, or assistant sergeant at arms of either house of the legislature, three and one-half per cent of the member's average final compensation in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of such service; and
  - (B) For all other credited service, as provided in paragraphs (1) and (2). No allowance shall exceed seventy-five per cent of the member's average final compensation. If the allowance exceeds this limit, it shall be adjusted by reducing the annuity included in subparagraph (A), and the portion of the accumulated contributions specified in that subparagraph in excess of the requirements of the reduced annuity shall be returned to the member.

The allowance for judges under this paragraph, together with the retirement allowance provided by the federal government for similar service, shall in no case exceed seventy-five per cent of the member's average final compensation."

SECTION 6. All public safety investigations staff investigators shall be designated class A members of the employees' retirement system after June 30, 1994.



## ACT 197

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

SECTION 8. This Act shall take effect on July 1, 1994.

(Approved June 21, 1994.)

## ACT 197

H.B. NO. 3491

A Bill for an Act Relating to Motor Vehicle Safety.

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

SECTION 1. Section 287-20, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Whenever a driver’s license has been suspended or revoked pursuant to part XIV of chapter 286, or upon a conviction of any offense pursuant to law, or in the case of minors, suspended or revoked pursuant to part V of chapter 571, the license shall not at any time thereafter be issued to the person whose license has been suspended or revoked, nor shall the person thereafter operate a motor vehicle, unless and until the person has furnished and thereafter maintains proof of financial responsibility; provided that this section shall not apply to any conviction of a moving violation or any administrative license suspension pursuant to chapter 291A, Nonresident Violator Compact. Whenever by reason of a conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses listed in this section, under the laws of the State or ordinances of any political subdivision, a court of competent jurisdiction has discretion to revoke or suspend a driver’s license but does not revoke or suspend the license, the administrator shall nevertheless after the expiration of thirty days from the date of conviction or adjudication suspend the license and shall keep the same suspended, and the person so convicted or adjudicated shall not thereafter operate a motor vehicle, unless and until the person so convicted or adjudicated furnishes and thereafter maintains proof of financial responsibility. The offenses referred to are:

- (1) Reckless or inattentive driving, driving while under the influence of intoxicating liquor, driving while under the influence of drugs, and driving while that person’s license has been suspended or revoked; and
- (2) Conviction or adjudication under part V of chapter 571 by reason of any moving violation offense involving a motor vehicle if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent extent in excess of \$1,000 and there are reasonable grounds for the administrator to believe that the defendant is at fault; and
- (3) Failure to have an effective no-fault insurance policy].”

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

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

(Approved June 21, 1994.)

**ACT 198**

H.B. NO. 3506

A Bill for an Act Relating to Public Safety.

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

SECTION 1. The "No Hope in Dope" program is a worthwhile educational program that seeks to teach students and their families about the dangers and effects of drug and alcohol abuse.

The Honolulu police department's component of the program includes workshops for students and their families, parades, concerts, patches, discount cards, and comic books. The proposed van will be used to transport students on field trips to drug and alcohol treatment facilities and correctional facilities.

The department of public safety's component of the program includes hiring guards to transport inmates to various sites for workshops. As part of these workshops, the inmates discuss how drug and alcohol abuse have led to their present difficulties. These workshops are provided for students and their families. The proposed van will be used to transport the inmates to the workshops.

Travel expenses are needed to take this program throughout the State as well as to bring speakers who generally waive honorariums to participate, to Hawaii. The Honolulu police department proposes to take twenty people on these neighbor island trips. Travel expenses include airfares, hotel rooms, meals, and van rentals.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$22,000, or so much thereof as may be necessary for fiscal year 1994-1995, for a grant-in-aid to the Honolulu police department's component of the "No Hope in Dope" program. The sum appropriated shall be expended by the city and county of Honolulu for the purposes of this Act for the following:

- (1) School/community projects;
- (2) A van; and
- (3) Travel expenses.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$52,212, or so much thereof as may be necessary for fiscal year 1994-1995, for the department of public safety's component of the "No Hope in Dope" program. The sum appropriated shall be expended by the department of public safety for the purposes of this Act to fund two adult corrections officer positions.

SECTION 4. This Act shall take effect on July 1, 1994.

(Approved June 21, 1994.)

**ACT 199**

H.B. NO. 3607

A Bill for an Act Relating to Government Assistance.

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

SECTION 1. The legislature finds that without any intervention, the

decrease in local sugar production will lead to unemployment for hundreds of employees. The anticipated cost per year in terms of unemployment and welfare benefits will be substantial, and the loss of tax revenues and related business will have a severe detrimental effect on the State's economy.

The legislature further finds that the continued cultivation of sugar cane to produce ethanol and related by-products shows significant potential in the effort to diversify the State's economy, to create new job opportunities, and to sustain aspects of the sugar industry. The production of ethanol would provide the State with an alternative energy product to petroleum-based fuels. Fuel grade ethanol would support efforts to reduce the State's virtual reliance on petroleum-based fuels.

The purpose of this Act is to authorize the director of business, economic development, and tourism to adopt rules to mandate the use of ethanol in transportation fuel, and thus diversify the state's economy by accelerating the development and production of alternative transportation fuels.

SECTION 2. Chapter 486E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§486E- Ethanol content requirement.** (a) The department shall adopt rules in accordance with chapter 91 to require that gasoline sold in the state for use in motor vehicles contain ten per cent ethanol by volume. The amounts of gasoline sold in the state containing ten per cent ethanol shall be in accordance with rules as the director deems appropriate. The director may authorize the sale of gasoline that does not meet these requirements as provided in subsection (d).

(b) Gasoline blended with an ethanol-based product, such as ethyl tertiary butyl ether, shall be considered to be in conformance with this section if the quantity of ethanol used in the manufacture of the ethanol-based product represents ten per cent, by volume, of the finished motor fuel.

(c) Ethanol used in the manufacture of ethanol-based gasoline additives, such as ethyl tertiary butyl ether, may be considered to contribute to the distributor's conformance with this section; provided that the total quantity of ethanol used by the distributor is an amount equal to or greater than the amount of ethanol required under this section.

(d) The department may authorize the sale of gasoline that does not meet the provisions of this section:

- (1) To the extent that sufficient quantities of competitively-priced ethanol are not available to meet the minimum requirements of this section; or
- (2) In the event of any other circumstances for which the department determines compliance with this section would cause undue hardship.

(e) Each distributor, at such reporting dates as the director may establish, shall file with the director, on forms prescribed, prepared, and furnished by the director, a certified statement showing:

- (1) The price and amount of ethanol available;
- (2) The amount of ethanol-blended fuel sold by the distributor;
- (3) The amount of non-ethanol-blended gasoline sold by the distributor; and
- (4) Any other information the department shall require for the purposes of compliance with this section.

(f) Provisions with respect to confidentiality of information shall be the same as provided in chapter 486I.

(g) Any distributor or any other person violating the requirements of this section shall be subject to a fine of not less than \$2 per gallon of nonconforming fuel, up to a maximum of \$10,000 per infraction.

(h) The department, in accordance with chapter 91, shall adopt rules for the administration and enforcement of this section.

(i) As used in this section:

“Competitively priced” means fuel-grade ethanol for which the wholesale price, minus the value of all applicable federal, state, and county tax credits and exemptions, is not more than the average posted rack price of unleaded gasoline of comparable grade published in the State.

“Department” means the department of business, economic development, and tourism.”

SECTION 3. The department of business, economic development, and tourism shall submit monthly reports to the legislature of the progress made to construct ethanol production facilities in the state.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect July 1, 1996.

(Approved June 21, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 200**

H.B. NO. 3630

A Bill for an Act Relating to Hawaiian Sovereignty.

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

SECTION 1. Findings. The legislature through Act 359, Session Laws of Hawaii 1993, recognized the unique status that the native Hawaiian people bear to the State of Hawaii and to the United States. The Hawaiian sovereignty advisory commission was established to seek counsel from the native Hawaiian people on how to facilitate the efforts to be governed by an indigenous sovereign nation of their own choosing.

In November 1993, the United States Congress adopted joint resolution P.L. 103-150, which acknowledged and apologized for the illegal overthrow of the Kingdom of Hawaii, and urged reconciliation between the United States of America and the indigenous Hawaiian people.

SECTION 2. Purpose. In the spirit of self-determination and by this Act, the legislature supports the efforts of the indigenous Hawaiian people to:

- (1) Create an independent entity to carry out the purposes of this Act; and
- (2) Provide for a fair and impartial process to determine the will of the indigenous people to restore a nation of their own choosing.

SECTION 3. Section 3 of Act 359, Session Laws of Hawaii 1993, is

ACT 200

amended by adding a new definition to be appropriately inserted and to read as follows:

““Council” means the Hawaiian sovereignty elections council.”

SECTION 4. Act 359, Session Laws of Hawaii 1993, is amended by adding a new section to read as follows:

“SECTION 4A. In carrying out the purposes of this Act, the council shall establish policies that do not discriminate on the basis of citizenship, place of residence, or civil status.”

SECTION 5. Section 78-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any other provision of law to the contrary notwithstanding, no person shall be allowed to serve on more than one state board or commission expressly created by a state statute or the state constitution[.]; provided that this section shall not apply to the Hawaiian sovereignty elections council.”

SECTION 6. Act 359, Session Laws of Hawaii 1993, is amended by amending section 2 to read as follows:

“SECTION 2. Purpose. The purpose of this Act is to acknowledge and recognize the unique status that the native Hawaiian people bear to the State of Hawaii and to the United States and to facilitate the efforts of native Hawaiians to determine their will to be governed by an indigenous sovereign nation of their own choosing. In the spirit of self-determination and by this Act, [the Legislature seeks counsel from the native Hawaiian people on the process of:] a Hawaiian sovereignty elections council is established to:

- (1) [Holding a referendum to determine the will of the native Hawaiian people to call a democratically convened convention for the purpose of achieving consensus on an organic document that will propose the means for native Hawaiians to operate under a government of their own choosing;] Hold a plebiscite in 1995, to determine the will of the indigenous Hawaiian people to restore a nation of their own choosing; and
- (2) [Providing for a mechanism to democratically convene a Hawaiian convention so that native Hawaiians may openly and freely discuss and decide the form and structure of that government; and
- (3) Describing the process for the conduct of fair, impartial, and valid elections including a referendum election.] Should the plebiscite be approved by a majority of qualified voters, provide for a fair and impartial process to resolve the issues relating to form, structure, and status of a Hawaiian nation.”

SECTION 7. Act 359, Session Laws of Hawaii 1993, is amended by amending section 4 to read as follows:

“SECTION 4. Hawaiian sovereignty [advisory commission.] elections council. (a) There is established within the [office of state planning] department of accounting and general services for administrative purposes the Hawaiian sovereignty [advisory commission,] elections council, to [advise the legislature in

carrying] carry out the purposes of this Act. The [commission] council shall consist of [nineteen] twenty members appointed by the governor without regard for section 78-4, Hawaii Revised Statutes. At least twelve of the [nineteen] twenty members shall be appointed from nominations submitted by Hawaiian organizations. Among the twelve, the governor shall appoint one member so designated from each of the following organizations: the Office of Hawaiian Affairs; Ka Lahui Hawai'i; the State Council of Hawaiian Homestead Association; and the Association of Hawaiian Civic Clubs. The [commission] council shall consist of at least one member from each of the islands[, or island groups] of: Kauai [or]; Niihau; Maui; Molokai [or]; Lanai; Oahu; [and] Hawaii[.]; and one member representing nonresident Hawaiians. Appointments shall be made before August 1, 1993, and shall not be subject to confirmation by the senate. Any appointment not made by that date shall be filled by the [commission] council during its first meeting which shall be held before August 15, 1993. [Any member planning to be a delegate to the Hawaiian convention shall be recused from any decision-making relating to the apportionment of districts and delegates. No member who participated in any decision-making relating to apportionment shall be eligible to serve as a delegate to the Hawaiian convention.] After August 31, 1994, no member of the council shall be eligible to run in any special election under this Act. The members shall elect a chairperson and vice-chairperson. Any vacancy on the [commission] council after July 1, 1994, shall be filled by the governor [within fifteen days after being notified of a vacancy.] from a list of nominees submitted by the council. If the governor fails to make an appointment within thirty days of receiving the list, the council shall make an appointment from the list of nominees. Members shall serve without compensation but shall be reimbursed for expenses, including travel and subsistence expenses, necessary for the performance of their duties. [Expenses shall be paid by the office of state planning.]

(b) The [commission] council shall [advise the legislature on]:

- (1) [Conducting special elections related to this Act;] Plan and conduct the plebiscite in 1995;
- (2) [Apportioning voting districts;] Carry out the responsibilities necessary for the conduct of elections and the convening of delegates;
- (3) [Establishing the eligibility of convention delegates;] Provide for an apportionment plan;
- (4) [Conducting educational activities for Hawaiian voters, a voter registration drive, and research activities in preparation for the convention;] Establish the eligibility of convention delegates;
- (5) [Establishing the size and composition of the convention delegation; and
- (6) Establishing the dates for the special elections.] Conduct Hawaiian voter education and registration; and
- (6) Establish task forces and committees necessary for the purposes of this Act.

(c) [The commission] For the purposes of funding, the council shall submit [a report of findings and recommendations] its plan for the election and convening of delegates to the legislature not less than twenty days prior to the convening of the regular session of [1994.] 1995."

SECTION 8. Act 359, Session Laws of Hawaii 1993, is amended by amending section 5 to read as follows:

"SECTION 5. **Task forces.** (a) The governor shall convene an inter-agency task force, consisting of persons from such public agencies as may be

**ACT 200**

necessary, to support the needs of the [commission.] council.

(b) The [commission] council may establish a task force, otherwise known as the kupuna council, to provide advice and support as necessary [to the commission]. Members shall be appointed without regard for section 78-4, Hawaii Revised Statutes. Members of the kupuna council shall serve without compensation but shall be reimbursed for expenses, including travel and subsistence expenses, necessary for the performance of their duties."

SECTION 9. Section 3 of Act 359, Session Laws of Hawaii 1993, is amended by repealing the definition of "commission."

[""Commission" means the Hawaiian sovereignty advisory commission."]

SECTION 10. Sections 6, 7, and 8 of Act 359, Session Laws of Hawaii 1993, are repealed.

["SECTION 6. **Ballot question.** The legislature proposes the following ballot question:

"Shall a Hawaiian convention be convened to propose an organic document for the governance of a Hawaiian sovereign nation?"

The commission shall review and may suggest revisions to that question. Upon due consideration, the legislature shall determine the question to be submitted to qualified voters in the 1994 general election.

SECTION 7. **Qualifications of voters and elections.** The commission shall submit a plan to the 1994 legislature on the qualifications of voters and the conduct of special elections to implement the purposes of this Act, providing that the plan complies with the general election laws of the State.

SECTION 8. **Hawaiian convention.** The duly elected delegates to the convention shall convene in a manner and at a time recommended by the commission and enacted by the 1994 legislature."]

SECTION 11. The individuals who were duly appointed under Act 359, Session Laws of Hawaii 1993, and are serving as members of the Hawaiian sovereignty advisory commission on the effective date of this Act, shall serve as members of the Hawaiian sovereignty elections council under this Act.

SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the sum of \$900,000, or so much thereof as may be necessary for fiscal year 1994-1995, for the purposes of this Act; provided that no funds shall be made available under this Act unless the Office of Hawaiian Affairs provides a dollar-for-dollar match of funds which are derived solely from revenues generated under the authority of section 5(f) of the Admission Act.

The sums appropriated or authorized shall be expended by the department of accounting and general services for the purposes of this Act.

The department of accounting and general services may hire staff necessary to accomplish the purposes of this Act. Such persons shall be exempt from chapters 76, 77, and 89, Hawaii Revised Statutes.

SECTION 13. Nothing in this Act shall be construed to require the State to expend or appropriate funds beyond those appropriated in this Act.

SECTION 14. Nothing arising out of the Hawaiian convention provided for in this Act, or any results of the ratification vote on proposals from the Hawaiian convention, shall be applied or interpreted to supersede, conflict, waive, alter, or affect the constitution, charters, statutes, laws, rules, regulations, or ordinances of the State of Hawaii or its political subdivisions, including its respective departments, agencies, boards, and commissions.

SECTION 15. 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 16. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 17. This Act shall take effect on July 1, 1994, and shall be repealed on December 31, 1997.

(Approved June 21, 1994.)

## ACT 201

S.B. NO. 2170

A Bill for an Act Relating to Recycled Materials.

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

SECTION 1. The legislature finds that Hawaii's energy resources and physical environment must be managed and protected in a manner that ensures the health, safety, and welfare of the citizens of the State and preserves our limited natural resources for future generations. The 1993 Energy and Environmental Summit was convened by the legislature on October 8, 1993, to identify issues and build broad-based support for initiatives that will move Hawaii forward in the areas of energy and the environment. This Act is the result of the collaborative efforts of participants of the summit.

SECTION 2. Chapter 342G, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

### **"PART . GLASS CONTAINER RECOVERY**

**§342G-A Definitions.** As used in this part, unless the context requires otherwise:

"Glass container importer" means any person who is engaged in the manufacture of glass containers within the State or who imports glass containers from outside the State for sale or use within the State. The term includes federal agencies and military distributors, but does not include airlines and shipping companies that merely transport glass containers.

"Glass incentive" means an incentive paid to licensed recyclers for recycling glass containers. Such incentives may be structured to include the costs of collection and processing, and a "buy back" incentive to increase participation by the public and private haulers.



“Glass recovery program” means a program for glass recovery and reuse for purposes including but not limited to:

- (1) Glass container reuse or recycling whereby containers are refilled, processed for shipment out of the State, or crushed into aggregate substitute; and
- (2) Use in roadway materials or concrete as provided in this part.

“Glassphalt” means an asphaltic concrete mixture utilizing crushed glass, under controlled gradation conditions, as a substitute for a percentage of the aggregate in the mix.

**§342G-B Advance disposal fee.** (a) Every glass container importer shall pay to the department an advance disposal fee. The fee shall be imposed only once on the same glass container and shall not be assessed on drinking glasses, cups, bowls, plates, ash trays, and similar tempered glass containers. For the period September 1, 1994, to September 1, 1996, the fee shall be one and one-half cents per glass container. Thereafter, the fee shall be set by the legislature at a rate the legislature determines will permit funding of county glass recovery programs as required to achieve the following glass recovery program goals:

- (1) Twenty-five per cent by the end of 1996;
- (2) Fifty per cent by the end of 1998; and
- (3) By the end of 2000 and thereafter, the maximum amount practicable considering the economic and environmental benefits to be realized.

(b) In January 1995, the department, with assistance from the county solid waste divisions, shall evaluate the amount of glass recovered during the first fifteen months of the program and recommend to the legislature any modification in the fee structure to meet county glass recovery program funding requirements. Thereafter, prior to the convening of the legislative session in each subsequent even-numbered year, the department of health, in coordination with the counties, shall report to the legislature on the effectiveness of the program and make appropriate recommendations for modification of the fee.

(c) The legislature shall have exclusive authority over all matters subject to this chapter.

(d) No county shall impose or collect any assessment or fee on glass containers for the same or similar purpose that is subject of this chapter.

**§342G-C Glass container importers; registration, recordkeeping requirements.** (a) By September 1, 1994, all glass container importers operating within the State shall register with the department, using forms prescribed by the department, and shall notify the department of any change in address. After September 1, 1994, any person who desires to conduct business in this State as a glass container importer shall register with the department no later than one month prior to the commencement of the business.

(b) All glass container importers registered with the department shall maintain records reflecting the manufacture of their glass containers as well as the importation and exportation of products packaged in glass. The records shall be made available, upon request, for inspection by the department; provided that any proprietary information obtained by the department shall be kept confidential, and shall not be disclosed to any other person except:

- (1) As may be reasonably required in an administrative or judicial proceeding to enforce any provision of this chapter or any rule adopted pursuant to this chapter; or
- (2) Under an order issued by a court or administrative agency hearing officer.

**§342G-D Deposit into environmental management special fund; distribution to counties.** (a) Revenues generated from the advance disposal fee shall be deposited into a special account in the environmental management fund. Moneys from the special account shall be used to fund county glass recovery programs established in accordance with the requirements under section 342G-F; provided that no moneys shall be made available to a county unless the county has first submitted its formally adopted integrated solid waste management plan to the department for review. In the event of any surplus in the special account, the department shall recommend a reduction in the fee as deemed necessary.

(b) The department shall distribute the moneys contained in the special account to the counties in proportion to the amount of glass imported into each county based on the county's de facto population. The distribution shall be in the form of direct contracts with the department as permitted under chapters 103 and 103D.

(c) No more than ten per cent, in the aggregate, of the revenue collected in any one year may be used by the department for administrative and educational purposes and to promote glass recovery, recycling, and reuse in Hawaii through research and demonstration projects.

**§342G-E Container inventory report and payment.** (a) Payment of the advance glass disposal fee shall be made quarterly based on inventory reports of the glass container importers. For the first payment, all glass container importers, on or before January 15, 1995, shall submit to the department documentation in sufficient detail that identifies the number of glass containers manufactured or imported to the State and sold or distributed, by manufacturer or distributor, during the calendar quarter ending December 31, 1994.

(b) The amount due from glass container importers less glass containers exported for the calendar quarter ending December 31, 1994, shall be the sum equal to the number of glass containers provided in subsection (a) multiplied by the advance disposal fee of .015 cents. Payment shall be made by check or money order payable to the "Department of Health, State of Hawaii". All subsequent inventory reports and payments shall be made not later than the fifteenth day of the month following the end of the previous calendar quarter.

**§342G-F County glass recovery programs; requirements.** (a) All county glass recovery programs shall include:

- (1) Some form of glass incentive or "buy back" program providing a means of encouraging participation by the public or private collectors; and
- (2) The paving during each of the first two years of the equivalent of one mile of two lane asphalt roadway as part of a research and demonstration program utilizing glassphalt.

(b) In addition, county programs may include but shall not be limited to:

- (1) Funding of the collection and processing of glass containers either through existing county agencies or through external contracts for services;
- (2) Subsidizing the transportation or processed material to off-island markets;
- (3) The development of collection facilities or the provision of containers for glass recycling, or the incremental portions of multi-material programs;

- (4) Additional research and development programs, including grants to private sector entrepreneurs, especially those activities developing higher value uses for the material; and
- (5) Public education and awareness programs focusing on glass recovery, or the incremental portions of multi-material programs.

**§342G-G Contract for administrative services.** The department may contract the services of a third party to administer the advance disposal fee program under this part.

**§342G-H Penalties.** Any person who violates any provision of this part, or any rule adopted thereunder, shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this section shall be considered a civil action.

**§342G-I Enforcement.** The department of health shall enforce this part.”

SECTION 3. Act 8, Special Session Laws of Hawaii 1993, is amended by adding a new section to part IV of the chapter established in section 2 of the Act, to read as follows:

“§ \_\_\_\_\_ - \_\_\_\_\_ **Construction projects, roadway materials; recycled glass content requirements.** (a) When purchasing roadway materials or other high-value, end-use applications for public projects, state agencies shall, and county agencies may, purchase materials with minimum recycled glass content meeting specifications adopted by the policy office which, at a minimum, shall provide for:

- (1) A minimum recycled glass content of ten per cent crushed aggregate in treated or untreated basecourse in paving materials that shall not reduce the quality standards for highway and road construction; and
- (2) The use of one hundred per cent aggregate in nonstructural capital improvement applications.

(b) All highway and road construction and improvement projects funded by the State or a county or roadways that are to be accepted by the State or a county as public roads shall utilize a minimum of ten per cent crushed glass aggregate, with one hundred per cent passing a one-fourth inch sieve, in all basecourse (treated or untreated) and subbase when the glass is available to the quarry or contractor at a price no greater than that of the equivalent aggregate.

(c) All state and county construction projects calling for nonstructural backfill shall utilize one hundred per cent crushed glass when available at a cost equal to or lower than the equivalent aggregate.

(d) As used in this section:

“Basecourse” means the layer or layers of specified material or selected material of a designed thickness to support a surface course.

“Environmental management special fund” means the fund established by section 342G-63.

“Nonstructural backfill” means use as fill in areas not subject to structural loading, including but not limited to utility line bedding, drainage backfill behind retaining walls, drainage line backfill in leachfields or french drains, and similar uses.”

SECTION 4. Section 264-8.5, Hawaii Revised Statutes, is repealed.

SECTION 5. In codifying the new part added to chapter 342G, Hawaii Revised Statutes, by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 6. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval; except that sections 3 and 4 shall take effect on July 1, 1994.

(Approved June 21, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 202**

S.B. NO. 2172

A Bill for an Act Relating to the Clean Hawaii Center.

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

SECTION 1. The legislature finds that Hawaii's energy resources and physical environment must be managed and protected in a manner that ensures the health, safety, and welfare of the citizens of the State and preserves our limited natural resources for future generations. The 1993 Energy and Environmental Summit was convened by the legislature on October 8, 1993, to identify issues and build broad-based support for initiatives that will move Hawaii forward in the areas of energy and the environment. This Act is the result of the collaborative efforts of participants of the Summit.

The legislature further finds that Act 312, Session Laws of Hawaii 1993, established a system of funding to support solid waste management programs and activities of the department of health, and to place the cost of the activities on the waste generator. The environmental management special fund created by Act 312 receives moneys from a solid waste disposal surcharge paid by the entity doing the disposal based on the tonnage of waste disposed of at the facility. As administrator of the special fund, the department of health is required to use the moneys to partially fund the operating costs of the solid waste management program, annual training for municipal solid waste operators, and statewide education, demonstration, and market development programs through direct contracts with the counties and the department of business, economic development, and tourism.

Act 324, Session Laws of Hawaii 1991, codified the State's goal of reducing the solid waste stream by twenty-five per cent by January 1, 1995, and by fifty per cent by January 1, 2000. Although state and county agencies as well as private industry have worked earnestly to encourage recycling, the current infrastructure for collecting, processing, and transporting post-consumer recyclable material is still inadequate. Only about nine per cent of the solid waste generated in the State is being recycled. One reason is that most of Hawaii's recycled materials are currently exported, since local markets for recycled goods are almost nonexistent.

The legislature believes that if there is to be significant progress in the diversion of a larger portion of solid waste from landfills, local markets for

recycled products must be developed or expanded immediately. Local market development also would benefit the State by:

- (1) Reducing its reliance on export markets requiring overseas shipment;
- (2) Creating business and employment opportunities for residents;
- (3) Reducing dependency on imported goods with recycled content; and
- (4) Reducing dependency on landfills and incineration facilities.

The neighbor islands in particular could benefit from these programs in that available landfill space is being rapidly filled by the growing needs of increasing populations. Additionally, with the demise of the sugar industry in neighbor island counties, the economic diversification that solid waste diversion programs would provide would assist in the stabilization of an already diminished economic base.

The purpose of this Act is to create the clean Hawaii center to encourage and foster the development of small and emerging recycling businesses; and the development of innovative techniques and the application of advanced technology in industry to reduce pollution, extend the life of landfills, save costs of disposal, and recycle valuable resources from the waste stream. The legislature believes that the mechanism set up in this Act will be effective because it provides for joint decision-making in market development policies with representation from the State, counties, and private industry.

The legislature has determined that the clean Hawaii center will benefit the State and the counties by:

- (1) Reducing the tonnage entering traditional disposal operations, such as landfills and incineration facilities. This reduction extends the life of the landfills and lessens the need to make extensive, mandatory, and costly alterations to existing incinerators such as Waipahu Incinerator and H-Power on the island of Oahu. This reduction, therefore, results in disposal cost savings to the counties, businesses, and residents; and
- (2) Increasing the tax revenues realized by the counties and the State as new businesses are developed and jobs are created.

SECTION 2. There is established within the department of business, economic development, and tourism, for administrative purposes only, the clean Hawaii center which shall be responsible for the market development of local processing and manufacturing industries for collected recyclables.

The duties of the center shall be to:

- (1) Provide targeted assistance to recycling businesses, including:
  - (A) Grants for research and demonstration; and
  - (B) Low-interest, long-term loans leveraged through the Hawaii capital loan program, the Hawaii Strategic Development Corporation, the Hawaii Economic Development Corporation, the High Technology Development Corporation, the Hawaii innovative development fund, other state and federal financing programs, and private sector mechanisms including the Small Business Administration, targeting start-up and implementation costs;

provided that the aggregate total of grants and loans under this paragraph shall be within the range of \$250,000 to \$1,000,000 from state programs;

- (C) The development of business plans;

- (D) Market research and planning information;
  - (E) Referral and information on market conditions; and
  - (F) Information on new technology and product development;
- (2) Undertake, in coordination with the department of health and county recycling programs, an integrated, comprehensive, education effort directed at government agencies, businesses, and the general public to promote processing, manufacturing, and purchase of recycled products. The education effort shall include:
- (A) Providing information to businesses on the availability and benefits of using recycled materials;
  - (B) Providing information and referral services on recycled material markets; and
  - (C) Providing information on new research and technologies that may be used by local businesses and governments;
- (3) Assist the department of health, department of accounting and general services, and the counties in the development of consistent definitions and standards for recycled product content, product performance, and availability;
- (4) Coordinate with the department of health to ensure that the education programs of both agencies are mutually reinforcing, with the center acting as the lead with respect to the business community and the department of health as the lead with respect to the general public; and
- (5) Facilitate, where possible, cooperative marketing of recyclable materials.

In addition to other powers conferred upon it, the clean Hawaii center may do all things necessary and convenient to carry out the powers expressly given in this Act.

SECTION 3. (a) The clean Hawaii center shall operate under policies established by a governing board to be composed of one representative from each of the four counties to be appointed by the respective mayors, and the following to be appointed by the governor in accordance with section 26-34: one representative each from the department of business, economic development, and tourism and the department of health; two representatives from the financial community; and four representatives from the business community, two of which shall be from the recycling and waste management industry. The governing board shall be constituted no later than sixty days following the effective date of the Act. The department of health and the department of business, economic development, and tourism shall provide administrative and staff support to assist the start-up of the clean Hawaii center.

(b) A board member shall not participate in any decision to invest in, purchase from, sell to, borrow from, loan to, contract with, or otherwise deal with any person or entity in which the board member has a substantial financial interest.

(c) The governing board shall use the following criteria, at a minimum, when evaluating recycling projects to develop and fund:

- (1) The project's potential to have an impact on overall solid waste reduction and achievement of the State's reduction goals;
- (2) Whether the project addresses the alternative management of wastes identified by the solid waste disposal facility operators as problematic;

- (3) Whether the project maximizes economic benefits through import reduction or an increase in the tax base;
- (4) The project's potential for job creation; and
- (5) Whether the board has been presented with a business plan that reflects detailed and justifiable expenses and revenues, and shows potential for profit and the ability to meet market demand for end products.

(d) The use of state funds, lands, or other resources for county waste reduction activities shall be restricted to those counties whose solid waste management programs are consistent with the requirements of chapter 342G, Hawaii Revised Statutes, and applicable county integrated solid waste management plans approved pursuant to chapter 342G, Hawaii Revised Statutes.

SECTION 4. It is the goal of the clean Hawaii center to foster the growth of a reuse or recycling industry by 1999, by:

- (1) Diverting at least 400,000 tons of material annually to reuse and remanufacturing businesses in Hawaii;
- (2) Establishing cooperative marketing agreements with foreign end users of recyclable material;
- (3) Assisting at least ten new or expanded reuse or recycling businesses to become fully operational;
- (4) Creating at least two hundred new reuse or remanufacturing jobs; and
- (5) Creating at least seventy-five new private sector waste collection and processing jobs.

SECTION 5. (a) The department of business, economic development, and tourism shall develop and submit for approval to the governing board a work plan for each of the first two years of operation of the clean Hawaii center. The plan shall describe:

- (1) A strategy for integrating and leveraging other state funding and assistance programs, and county and federal financing programs that could assist in the development of a remanufacturing industry in Hawaii;
- (2) A strategy for developing a remanufacturing and recycling industry in Hawaii;
- (3) The department's actions and recommendations for developing markets for commodities comprising a significant percentage of the waste stream and having the greatest potential for use as an industrial or commercial feedstock;
- (4) Market promotion and research promoting the use of locally-produced soil amendments made from recycled organic material;
- (5) The development of the capacity to process and reuse construction and demolition waste material through both processing of non-reusable waste into new products and the reuse of valuable elements in the demolition waste stream through source separation, salvage, and repair;
- (6) The development of the capacity for manufacturing of recycled paper products (both wet and dry process) and product promotion; and

- (7) The expansion of capacity for mixed plastic resin extrusion processing through the increase in the flow of a quality feedstock (collection and processing capacity) and expanded market promotion.

SECTION 6. (a) The department of business, economic development, and tourism shall develop and submit an expenditure plan for the first year of operation to the governing board for approval. This expenditure plan shall indicate:

- (1) The amounts which should be expended for loans and grants in accordance with the priorities and guidelines established under this Act; and
- (2) The amounts to be used to develop the organizational structure and administrative rules for the operation of the clean Hawaii center; hire a program manager and one additional staff person; and implement appropriate outreach, education and training programs.

In subsequent years, the clean Hawaii center and the department of business, economic development, and tourism shall work collaboratively in developing future expenditure plans.

(b) The governing board, no later than twenty days prior to the convening of the regular session of 1995, shall submit to the legislature a progress report on the clean Hawaii center program and, no later than twenty days prior to the convening of the regular session of 1996, shall submit to the legislature an organizational and implementation plan for the operation of the clean Hawaii center until the year 1999.

On or before January 1, 1999, the governing board shall submit to the legislature a final report on the operation of the center.

SECTION 7. Chapter 342G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§342G- Clean Hawaii fund established.** There is established within the state treasury a special fund to be known as the clean Hawaii fund which shall be administered by the department of business, economic development, and tourism to fund the activities of the clean Hawaii center. All moneys derived from:

- (1) Other funding mechanisms established by future state laws; and
- (2) Any other moneys as may be received by the clean Hawaii center in the form of federal, county, or private grants, or gifts

shall be deposited into the clean Hawaii fund.”

SECTION 8. Section 210-6, Hawaii Revised Statutes, is amended to read as follows:

**“§210-6 Direct loans, terms, and restrictions.** (a) The department of business, economic development, and tourism may make loans to small business concerns for the financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for the supplying of working capital. The loans may be made in conjunction with loans made by other financial institutions, including the SBA. Where the loans made by the department are secured, the security may be subordinated to the loans made by other financial institutions, when the



## ACT 202

subordination is required in order to obtain loans from such institutions. The necessity for and the extent of security required in any loan shall be determined by the director of business, economic development, and tourism.

(b) The foregoing powers shall be subject, however, to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant. The condition may be waived by the director for participation loans with a private financial institution.
- (2) The amount of the loan or loans to any one applicant at any one time shall in no case exceed a total of \$1,000,000.
- (3) No loan shall be made for a term exceeding twenty years.
- (4) Each loan shall bear simple interest at a rate of one per cent below the prime rate or at a rate of seven and one-half per cent a year, whichever is lower. For purposes of this paragraph, the prime rate shall be determined on January 1 and July 1 of each year, and shall be the rate charged by the two largest banks in the State of Hawaii identified by the department of commerce and consumer affairs. Should there be a difference in rate charged by the institutions, the lower of the two shall be utilized.
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of five years.
- (6) The payment of interest on the principal of a loan may be deferred by the director, but in no event shall interest payments be deferred in excess of two years from the date of issuance of the loan.

(c) Any restriction or limitation in subsection (b) may be waived at the director's discretion where the applicant is a reuse or recycling business that meets the following criteria:

- (1) The business has potential to have an impact on overall solid waste reduction and achievement of the State's reduction goals;
- (2) The business addresses the alternative management of wastes identified by the solid waste disposal facility operators as problematic;
- (3) The business maximizes economic benefits through import reduction or an increase in the tax base;
- (4) The business has potential for job creation; and
- (5) The business has a plan that accurately reflects detailed and justifiable expenses and revenues, shows potential for profit, and an ability to meet market demand for end products."

SECTION 9. The clean Hawaii center shall cease to exist on June 30, 1999.

SECTION 10. New statutory material is underscored.<sup>1</sup>

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

(Approved June 21, 1994.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 203

S.B. NO. 2180

A Bill for an Act Relating to Underground Storage Tanks.

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

SECTION 1. The purpose of this Act is to require the department of health to develop a process to ensure the prompt issuance of "no further action" letters from the date of first filing of clear and complete release response action reports detailing site remediation that is protective of human health and the environment. The legislature finds that action must be taken to ensure the issuance of these letters in a more timely manner. This Act also requires the department of health to convene a work group to review, evaluate, and make recommendations regarding issues related to the leaking underground storage tank program and report back to the department of health with recommendations.

SECTION 2. The department of health shall develop processes and procedures to issue underground storage tank "no further action" letters on a regular and timely basis, after a reasonable period of time from the date of filing of an acceptable environmental release response report with the department. After a "no further action" letter has been issued, no further clean-up can be required unless additional evidence indicates that residual contamination may still pose a risk to public health or the environment that is related to the underground storage tank that is the subject of the release response action report.

SECTION 3. The department of health shall establish a work group composed of members of the affected industries, including real estate sales, developers, members of the petroleum industry, financial institutions, environmental groups, and retailers. The group shall convene no later than September 1, 1994 and shall meet for the purpose of identifying concerns associated with the implementation of the leaking underground storage tank program, including issues related to real estate transactions and financial hardship related to the clean-up requirements of underground storage tanks, and shall make recommendations to the department of health as to how to resolve those concerns, including but not limited to educational materials, seminars, and other public outreach activities.

SECTION 4. The department of health shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 1995 on its findings and recommendations on processes and procedures for the issuance of "no further action" letters.

SECTION 5. If any provision of this Act conflicts with any federal or existing state law, the provisions of the federal law or existing state law shall prevail.

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

(Approved June 21, 1994.)

A Bill for an Act Relating to Firearms and Dangerous Weapons.

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

SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§663- **Liability of firearm owners.** The owner of a firearm, if the discharge of the firearm proximately causes either personal injury or property damage to any person, shall be absolutely liable for such damage. It shall be an affirmative defense to such absolute liability that the firearm was not in the possession of the owner and was taken from the owner’s possession without the owner’s permission and the owner either had reported the theft to the police prior to the discharge or, despite the exercise of reasonable care, had not discovered the theft prior to the discharge or was not reasonably able to report the theft to the police prior to the discharge. This section shall not apply when the discharge of the firearm was legally justified.”

SECTION 2. Section 134-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

“Firearm loaded with ammunition” and “loaded firearm” means a firearm with ammunition present within the firing chamber, revolving cylinder, or within a magazine which is inserted in a firearm.

“Public highway” shall have the same meaning as defined in section 264-1(a).”

SECTION 3. Section 134-2, Hawaii Revised Statutes, is amended to read as follows:

“§134-2 **Permits to acquire.** (a) No person shall acquire the ownership of a firearm, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, either by purchase, gift, inheritance, bequest, or in any other manner, whether procured in the State or imported by mail, express, freight, or otherwise, until the person has first procured from the chief of police of the county of the person’s place of business or, if there is neither place of business,<sup>1</sup> nor residence or, if there is no place of business, the person’s residence, the person’s place of sojourn, a permit to acquire the ownership of a firearm as prescribed in this section; provided that when title to any firearm is acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of a firearm.

(b) The permit application form shall include the applicant’s name, address, sex, height, weight, date of birth, place of birth, [social security] Social Security number, and information regarding the applicant’s mental health history and shall require the fingerprinting and photographing of the applicant by the police department of the county of registration; provided that where fingerprints and photograph are already on file with the department, these may be waived.

(c) An applicant for a permit shall sign a waiver at the time of application, allowing the chief of police of the county issuing the permit access to any records that have a bearing on the mental health of the applicant. The permit application

form and the waiver form shall be prescribed by the attorney general and shall be uniform throughout the State.

(d) The chief of police of the respective counties may issue permits to acquire firearms to citizens of the United States of the age of [eighteen] twenty-one years or more, or duly accredited official representatives of foreign nations, or duly commissioned law enforcement officers of the State who are aliens; provided that any law enforcement officer who is the owner of a firearm and who is an alien shall transfer ownership of the firearm within forty-eight hours after termination of employment from a law enforcement agency. The chief of police of each county may issue permits to aliens of the age of eighteen years or more for use of rifles and shotguns for a period not exceeding sixty days, upon a showing that the alien has first procured a hunting license under chapter 183D, part II. The chief of police of each county may issue permits to aliens of the age of twenty-one years or more for use of firearms for a period not exceeding six months, upon a showing that the alien is in training for a specific organized sport-shooting contest to be held within the permit period. The attorney general shall adopt rules, pursuant to chapter 91, as to what constitutes sufficient evidence that an alien is in training for a sport-shooting contest.

(e) The permit application form shall be signed by the applicant and by the issuing authority. One copy of the permit shall be retained by the issuing authority as a permanent official record. Except for sales to dealers licensed under section 134-31, or dealers licensed by the United States Department of the Treasury, or law enforcement officers, or where a license is granted under section 134-9, or where any firearm is registered pursuant to section 134-3(a), no permit shall be issued to [a first time] an applicant earlier than fourteen calendar days after the date of the application; provided that a permit shall be issued or the application denied before the twentieth day from the date of application. [Persons who have previously obtained permits subject to the waiting period required by this subsection and who make a subsequent application within one year of the issue date of the first permit may be issued permits in less than fourteen days.] Permits issued to acquire any pistol or revolver shall be void unless used within ten days after the date of issue. Permits to acquire a pistol or revolver require a separate application and permit for each transaction. Permits issued to acquire any rifle or shotgun shall entitle the permittee to make subsequent purchases of rifles or shotguns for a period of one year from the date of issue without a separate application and permit for each acquisition, subject to the disqualifications under section 134-7[.] and subject to revocation under section 134-13: provided that if a permittee is arrested for committing a felony or any crime of violence or for the illegal sale of any drug, the permit shall be impounded and shall be surrendered to the issuing authority.

(f) In all cases where a pistol or revolver is acquired from another person within the State, the permit shall be signed in ink by the person to whom title to the pistol or revolver is transferred and shall be delivered to the person who is transferring title to the firearm, who shall verify that the person to whom the firearm is to be transferred is the person named in the permit and enter on the permit in the space provided the following information: name of the person to whom the title to the firearm was transferred; names of the manufacturer and importer; model; type of action; caliber or gauge; and serial number as applicable. The person who is transferring title to the firearm shall sign the permit in ink and cause the permit to be delivered or sent by registered mail to the issuing authority within forty-eight hours after transferring the firearm.

In all cases where receipt of a firearm is had by mail, express, freight, or otherwise from sources without the State, the person to whom the permit has been

issued shall make the prescribed entries on the permit, sign the permit in ink, and cause the permit to be delivered or sent by registered mail to the issuing authority within forty-eight hours after taking possession of the firearm.

In all cases where a rifle or shotgun is acquired from another person within the State, the person who is transferring title to the rifle or shotgun shall submit, within forty-eight hours after transferring the firearm, to the authority which issued the permit to acquire, the following information, in writing: name of the person who transferred the firearm, name of the person to whom the title to the firearm was transferred; names of the manufacturer and importer; model; type of action; caliber or gauge; and serial number as applicable.

(g) Effective July 1, 1995, no person shall be issued a permit under this section for the acquisition of a pistol or revolver unless the person, at any time prior to the issuance of the permit, has completed:

- (1) An approved hunter education course as authorized under section 183D-28;
- (2) A firearms safety or training course or class available to the general public offered by a law enforcement agency of the State or of any county;
- (3) A firearms safety or training course offered to law enforcement officers, security guards, investigators, deputy sheriffs, or any division or subdivision of law enforcement or security enforcement by a state or county law enforcement agency; or
- (4) A firearms training or safety course or class conducted by a state certified or National Rifle Association certified firearms instructor that provides, at a minimum, a total of at least three hours of firing training at a firing range and a total of at least three hours of classroom instruction, which may include a video, that focuses on:
  - (A) The safe use, handling, and storage of firearms and firearm safety in the home; and
  - (B) Education on the firearm laws of the State.

An affidavit signed by the certified firearms instructor who conducted or taught the course, providing the name, address, and phone number of the instructor and attesting to the successful completion of the course by the applicant shall constitute evidence of certified successful completion under this paragraph.

[(g) (h) No person shall sell, give, lend, or deliver into the possession of another any firearm except in accordance with this chapter.

[(h) (i) No fee shall be charged for permits under this section.”

SECTION 4. Section 134-3, Hawaii Revised Statutes, is amended to read as follows:

**“§134-3 Registration, mandatory, exceptions.** (a) Every person arriving in the State who brings or by any other manner causes to be brought into the State a firearm of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, shall register the firearm within three days after arrival of the person or of the firearm, whichever arrives later, with the chief of police of the county of the person’s place of business or, if there is no place of business, such person’s residence or, if there is neither a place of business nor residence, the person’s place of sojourn; provided that no alien shall be allowed to bring a firearm of any description into the State.

(b) Every person who acquires a [pistol or revolver] firearm pursuant to section 134-2 shall register the [pistol or revolver] firearm in the manner prescribed by this section within five days of acquisition. The registration shall be on

forms prescribed by the attorney general, which shall be uniform throughout the State, and shall include the following information: name of the manufacturer and importer; model; type of action; caliber or gauge; serial number; and source from which receipt was obtained, including the name and address of the prior registrant. If the firearm has no serial number, the permit number shall be entered in the space provided for the serial number, and the permit number shall be engraved upon the receiver portion of the firearm prior to registration. All registration data that would identify the individual registering the firearm by name or address shall be confidential and shall not be disclosed to anyone, except as may be required for processing the registration or as may be required by a law enforcement agency for the lawful performance of its duties or as may be required by order of a court.

(c) Dealers licensed under section 134-31 or dealers licensed by the United States Department of the Treasury shall register firearms pursuant to this section on registration forms prescribed by the attorney general and shall not be required to have the firearms physically inspected by the chief of police at the time of registration.

(d) Registration shall not be required for:

- (1) Any device that is designed to fire loose black powder[;] or that is a firearm manufactured before 1899;
- (2) Any device not designed to fire or made incapable of being readily restored to a firing condition; or
- (3) All unserviceable firearms and destructive devices registered with the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury pursuant to Title 27, Code of Federal Regulations.

(e) No fee shall be charged for the registration.”

SECTION 5. Section 134-6, Hawaii Revised Statutes, is amended to read as follows:

**“§134-6 Carrying or use of firearm in the commission of a separate felony; place to keep firearms; loaded firearms; penalty.** (a) It shall be unlawful for a person to knowingly carry on the person or have within the person’s immediate control or intentionally use or threaten to use a firearm while engaged in the commission of a separate felony, whether the firearm was loaded or not, and whether operable or not; provided that a person shall not be prosecuted under this subsection where the separate felony is:

- (1) A felony offense otherwise defined by this chapter;
- (2) The felony offense of reckless endangering in the first degree under section 707-713;
- (3) The felony offense of terroristic threatening in the first degree under section 707-716(a), 707-716(b), and 707-716(d); or
- (4) The felony offenses of criminal property damage in the first degree under section 708-820 and criminal property damage in the second degree under section 708-821 and the firearm is the instrument or means by which the property damage is caused.

(b) It shall be unlawful for a person to knowingly possess a firearm with the intent to facilitate the commission of a felony offense involving the distribution of a controlled substance, whether the firearm was loaded or not, and whether operable or not.

(c) Except as provided in sections 134-5 and 134-9, all firearms and ammunition shall be confined to the possessor’s place of business, residence, or

sojourn; provided that it shall be lawful to carry unloaded firearms or ammunition or both in an enclosed container from the place of purchase to the purchaser's place of business, residence, or sojourn, or between these places upon change of place of business, residence, or sojourn, or between these places and the following: a place of repair; a target range; a licensed dealer's place of business; an organized, scheduled firearms show or exhibit; a place of formal hunter or firearm use training or instruction; or a police station. "Enclosed container" means a rigidly constructed receptacle, or a commercially manufactured gun case, or the equivalent thereof that completely encloses the firearm.

(d) It shall be unlawful for any person on any public highway to carry on the person, or to have in the person's possession, or to carry in a vehicle any firearm loaded with ammunition; provided that [the provision of] this [paragraph] subsection shall not apply to any person who has in the person's possession or carries a pistol or revolver and ammunition therefor in accordance with a license issued as provided in section 134-9.

(e) Any person violating subsection (a) or (b) shall be guilty of a class A felony. Any person violating this section by carrying or possessing a loaded firearm or by carrying or possessing a loaded or unloaded pistol or revolver without a license issued as provided in section 134-9 shall be guilty of a class B felony. Any person violating this section by carrying or possessing an unloaded firearm, other than a pistol or revolver, shall be guilty of a class C felony.

(f) Any vehicle used in the commission of an offense under subsection (d) shall be forfeited to the State, subject to the notice and hearing requirements of chapter 712A.

[(f)] (g) For the purposes of this section:

"Controlled substance" shall be as defined in section 329-1.

"Distribution" means the selling, transferring, prescribing, giving, or delivering to another, or the leaving, bartering, or exchanging with another, or the offering or agreeing to do the same."

SECTION 6. Section 134-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) No person who:

- (1) Is or has been under treatment or counseling for addiction to, abuse of, or dependence upon any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;
- (2) Has been committed pursuant to section 333F-9 or 333F-10;
- (3) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411; or
- (4) Is or has been [under treatment for] diagnosed as having a significant behavioral, emotional, or mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes;

shall own, possess, or control any firearm or ammunition therefor, unless the person has been medically documented to be no longer adversely affected by the addiction, abuse, dependence, mental disease, disorder, or defect."

SECTION 7. Section 134-7, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) No person who has been restrained pursuant to an order of any court,

[other than an order issued ex parte,] including an ex parte order as provided for herein, from contacting, threatening, or physically abusing any person, shall possess or control any firearm or ammunition therefor, so long as the protective order or any extension thereof is in effect, unless the order, for good cause shown, specifically permits the possession of a firearm and ammunition. The restraining order or order of protection shall specifically include a statement that possession or control of a firearm or ammunition by the person named in the order is prohibited. Such person shall relinquish possession and control of any firearm and ammunition owned by that person to the police department of the appropriate county for safekeeping for the duration of the order or extension thereof. In the case of an ex parte order, the affidavit or statement under oath which forms the basis for the order shall contain a statement of the facts which support a finding that the person to be restrained owns, intends to obtain, or possesses a firearm, and that the firearm may be used to threaten, injure or abuse any person. The ex parte order shall be effective upon service pursuant to section 586-6. At the time of service of a restraining order involving firearms and ammunition issued by any court, the police officer may take custody of any and all firearms and ammunition in plain sight, those discovered pursuant to a consensual search, and those firearms surrendered by the person restrained. If the person restrained is the registered owner of a firearm and knows the location of the firearm but refuses to surrender the firearm or refuses to disclose the location of the firearm, the person restrained shall be guilty of a misdemeanor. In any case, when a police officer is unable to locate the firearms and ammunition either registered under this chapter or known to the person granted protection by the court, the police officer shall apply to the court for a search warrant pursuant to chapter 803 for the limited purpose of seizing the firearm and ammunition.”

SECTION 8. Section 134-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In an exceptional case, when an applicant shows reason to fear injury to the applicant’s person or property, the chief of police of the appropriate county may grant a license to an applicant who is a citizen of the United States of the age of [twenty] twenty-one years or more or to a duly accredited official representative of a foreign nation of the age of [twenty] twenty-one years or more to carry a pistol or revolver and ammunition therefor concealed on the person within the county where the license is granted. Where the urgency or the need has been sufficiently indicated, the respective chief of police may grant to an applicant of good moral character who is a citizen of the United States of the age of [twenty] twenty-one years or more, is engaged in the protection of life and property, and is not prohibited under section 134-7 from the ownership or possession of a firearm, a license to carry a pistol or revolver and ammunition therefor unconcealed on the person within the county where the license is granted. Unless renewed, the license shall expire one year from the date of issue.”

SECTION 9. Section 134-17, Hawaii Revised Statutes, is amended to read as follows:

“**§134-17 Penalties.** (a) If any person gives false information or offers false evidence of the person’s identity in complying with any of the requirements of this part, that person shall be guilty of a misdemeanor[.], provided, however that if any person intentionally gives false information or offers false evidence



concerning their psychiatric or criminal history in complying with any of the requirements of this part, that person shall be guilty of a class C felony.

(b) Any person who violates section 134-3(a) shall be guilty of a petty misdemeanor.

(c) Any person who violates section 134-2, [134-3(b),] 134-4, 134-10, 134-15, or 134-16(a) shall be guilty of a misdemeanor. Any person who violates section 134-3(b) shall be guilty of a petty misdemeanor and the firearm shall be confiscated as contraband and disposed of, if the firearm is not registered within five days of the person receiving notice of the violation."<sup>2</sup>

SECTION 10. Section 134-18, Hawaii Revised Statutes, is amended to read as follows:

**"[§134-18] Qualified immunity for physicians, psychologists,<sup>3</sup> or psychiatrists who provide information on permit applicants.** There shall be no civil liability for any physician, psychologist or psychiatrist who provides information or renders an opinion in response to an inquiry made for purposes of issuing a firearm permit under section 134-2[,] or for purposes of investigating the continuing mental health of the holder of a valid firearm permit provided that the physician, psychologist, or psychiatrist acted without malice."

SECTION 11. Section 134-32, Hawaii Revised Statutes, is amended to read as follows:

**"§134-32 License to sell and manufacture firearms; conditions.** Every license issued pursuant to this part shall be issued and shall be regarded as having been accepted by the licensee subject to the following conditions:

- (1) That the licensee at all times shall comply with all provisions of law relative to the sale of firearms.
- (2) That the license during any time of national emergency or crisis, as defined in section 134-34, may be canceled or suspended.
- (3) That all firearms in the possession and control of any licensee at any time of national emergency or crisis, as defined in section 134-34, may be seized and held in possession or purchased by or on the order of the governor until such time as the national emergency or crisis has passed, or until such time as the licensee and the government of the United States or the government of the State may agree upon some other disposition of the same.
- (4) That all firearms in the possession and control of the licensee or registered pursuant to section 134-3(c) by the licensee shall be subject to physical inspection by the chief of police of each county during normal business hours at the licensee's place of business.
- (5) That the license may be revoked for a violation of any of the conditions of this section."

SECTION 12. The department of the attorney general shall act as the lead agency in the planning and implementation of a firearms amnesty program through the county police departments pursuant to this part. The program shall provide that any person may turn in one or more unwanted firearms to the county police department and receive an incentive. The attorney general shall work with the various state departments and the counties, and shall seek the cooperation and participation of private agencies and enterprises, to create a package of incentives to encourage the surrender of firearms. The amnesty program shall not apply to

firearms described in section 134-3(d).

The attorney general shall submit a report to the legislature not less than twenty days prior to the convening of the regular session of 1995 as to the statutes which need to be adopted to accomplish the purposes of this section, including legislative proposals to address amnesty with respect to Chapter 134 for those who turn in firearms.

SECTION 13. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>4</sup>

SECTION 15. This Act shall take effect on July 1, 1994.

(Approved June 21, 1994.)

#### Notes

1. So in original.
2. Prior to amendment, section was comprised of subsections (a) to (d).
3. Comma should be underscored.
4. Edited pursuant to HRS §23G-16.5.

## ACT 205

S.B. NO. 2863

A Bill for an Act Relating to Environmental Protection.

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

SECTION 1. Section 128D-2, Hawaii Revised Statutes, is amended to read as follows:

“**§128D-2 Environmental response revolving fund[.]; uses.** (a) There is created within the state treasury an environmental response revolving fund, which shall consist of moneys appropriated to the fund by the legislature, moneys paid to the fund as a result of departmental compliance proceedings, moneys paid to the fund pursuant to court-ordered awards or judgments, moneys paid to the fund in court-approved or out-of-court settlements, all interest attributable to investment of money deposited in the fund, moneys generated by the environmental response tax established in section 243-3.5, and moneys allotted to the fund from other sources; provided that when the total balance of the fund exceeds \$7,000,000, the department of health shall notify the department of taxation of this fact in writing within ten days. The department of taxation then shall notify all distributors liable for collecting the tax imposed by section 243-3.5 of this fact in writing, and the imposition of the tax shall be discontinued beginning the first day of the second month following the month in which notice is given to the department of taxation. If the total balance of the fund thereafter declines to less than \$3,000,000, the department of health shall notify the department of taxation which then shall notify all distributors liable for collecting the tax imposed by section 243-3.5 of this fact in writing, and the imposition of the tax shall be reinstated beginning the first day of the second month following the month in which notice is given to the department of taxation.

(b) Moneys from the fund shall be expended by the department for response actions, including removal and remedial actions, consistent with this chapter; provided that the revenues generated by the "environmental response tax" and deposited into the environmental response revolving fund:

- (1) Shall be used:
  - (A) For oil spill planning, prevention, preparedness, education, research, training, removal, and remediation; and
  - (B) For direct support for county used oil recycling programs; and
- (2) May also be used to address concerns related to drinking water, underground storage tanks, including support for the underground storage tank program of the department and funding for the acquisition by the State of a soil remediation site and facility."

SECTION 2. Section 243-3.5, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~243-3.5] **Environmental response tax[.]; uses.** (a) In addition to any other taxes provided by law, subject to the exemptions set forth in section 243-7, there is hereby imposed at times provided in section 128D-2 a state environmental response tax of 5 cents on each barrel or fractional part of a barrel of petroleum product sold by a distributor to any retail dealer or end user, other than a refiner, of petroleum product[.]; provided that ~~\_\_\_\_\_~~ cents<sup>1</sup> of the tax on each barrel shall be used pursuant to section 128D-2 to address concerns relating to drinking water. The tax imposed by this subsection shall be paid by the distributor of the petroleum product.

(b) Each distributor subject to the tax imposed by subsection (a), on or before the last day of each calendar month, shall file with the director, on forms prescribed, prepared, and furnished by the director, a return statement of the tax under this section for which the distributor is liable for the preceding month. The form and payment of the tax shall be transmitted to the department of taxation in the appropriate district.

(c) Notwithstanding section 248-8 to the contrary, the environmental response tax collected under this section shall be paid over to the director of finance for deposit into the environmental response revolving fund established by section 128D-2.

(d) Every distributor shall keep in the State and preserve for five years a record in such form as the department of taxation shall prescribe showing the total number of barrels and the fractional part of barrels of petroleum product sold by the distributor during any calendar month. The record shall show such other data and figures relevant to the enforcement and administration of this chapter as the department may require."

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

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

(Approved June 21, 1994.)

Note

- 1. So in original.

## ACT 206

S.B. NO. 2880

A Bill for an Act Relating to the Land Court.

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

SECTION 1. The legislature finds that the recent decision by the Hawaii Supreme Court in *Waikiki Malia Hotel, Inc. v. Kinkai Properties Limited Partnership and MNS, Ltd.*, (1993) has created some uncertainty regarding the specificity with which encumbrances must be noted on a certificate of title pursuant to section 501-82, Hawaii Revised Statutes, in order to encumber the registered land which is the subject of the certificate of title.

Section 501-82, Hawaii Revised Statutes, permits the applicant receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value and in good faith, to hold the registered land free from all encumbrances except those noted on the certificate of title and except certain statutorily enumerated encumbrances.

The legislature finds that the intent of section 501-82, Hawaii Revised Statutes, is to preserve the integrity of land registered in accordance with chapter 501, Hawaii Revised Statutes, by recognizing the authority of the certificate of title in determining encumbrances to which registered land is subject. The legislature further finds that it is necessary to clarify the specificity with which an encumbrance must be noted on a certificate of title in order to provide the holder thereof with notice sufficient to encumber the holder's registered land.

SECTION 2. Section 501-82, Hawaii Revised Statutes, is amended to read as follows:

**“§501-82 Tenure of holder of certificate of title.** (a) Every applicant receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value and in good faith, hold the same free from all encumbrances except those noted on a certificate in the order of priority of recordation, and any of the following encumbrances which may be subsisting, namely:

- (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 paragraph only if the same are recorded in the bureau of conveyances as provided by chapter 505.
- (2) Unpaid real property taxes assessed against the land and improvements covered by the certificate of title, with interest, penalties, and other additions to the tax, which, unless a notice is filed and registered as provided by county real property tax ordinance, shall be for the period of three years from and after the date on which the lien attached, and if proceedings for the enforcement or foreclosure of the tax lien are brought within the period, until the termination of the proceedings or the completion of the tax sale.
- (3) State tax liens, if the same are recorded in the bureau of conveyances as provided by section 231-33.

- (4) Any public highway, or any private way laid out under the provisions of law, when the certificate of title does not state that the boundary of such way has been determined.
- (5) Any lease, coupled with occupancy, for a term not exceeding one year; provided that the priority of the unrecorded lease shall attach only at the date of the commencement of the unrecorded lease and expire one year from the date or sooner if so expressed.
- (6) Any liability to assessments for betterments, or statutory liability which may attach to land as a lien prior to or independent of, the recording or registering of any paper of the possibility of a lien for labor or material furnished in the improvement of the land; provided that the priority of any such liability and the lien therefor (other than for labor and material furnished in the improvement of the land which shall be governed by section 507-43) shall cease and terminate three years after the liability first accrues unless notice thereof, signed by the officer charged with collection of such assessments or liability, setting forth the amount claimed, the date of accrual, and the land affected, is registered and noted on the certificate of title within such three-year period; provided further that if there are easements or other rights, appurtenant to a parcel of registered land which for any reason have failed to be registered, such easements or rights shall remain so appurtenant notwithstanding such failure, and shall be held to pass with the land until cut off or extinguished by the registration of the servient estate, or in any other manner.
- (7) The possibility of reversal or vacation of the decree of registration upon appeal.

(b) For the purposes of this section, an encumbrance shall be deemed sufficiently noted on a certificate if the notation:

- (1) References a document by name or number which contains an encumbrance; and
- (2) Indicates that the referenced document contains an encumbrance to which the registered land is subject.

(c) If the title of a recorded document indicates that it contains an encumbrance, the assistant registrar shall note the document as an encumbrance on the certificate of title or the new certificate of title issued upon recordation of such document, as applicable."

SECTION 3. New statutory material is underscored.

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

(Approved June 21, 1994.)

**ACT 207**

S.B. NO. 2956

A Bill for an Act Relating to Tree Farms.

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

SECTION 1. Chapter 186, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§186- Right to harvest. (a) The owner of land shall have the right to harvest new trees generated according to a management plan approved by the department on lands within the agricultural district as provided by section 186-2(a)(1), or on degraded forest and pasture lands within the conservation district and zoned for commercial forest use as provided by section 186-2(a)(2); provided that this right shall be subject to the power of the State to protect health, safety, and welfare.

(b) The State’s liability as a result of the right to harvest new trees shall be limited to actions taken only by the State and shall not extend to any private property rights.

(c) As used in this section, “degraded forests” means areas which have had considerable disturbance, are altered from their natural state, and contain less than twenty per cent crown canopy of native tree species.”

SECTION 2. Section 186-3, Hawaii Revised Statutes, is amended to read as follows:

“§186-3 Applications; management plans. (a) The owner of any property which complies with the requirements specified in section 186-2 may apply to the board for classification of the owner’s property as tree farm property. The application shall [include:

- (1) A description of the property;
- (2) A management plan, which plan shall provide specific information regarding the development by seeding, planting of seedlings, or other approved reforestation techniques, maintenance, and harvesting of trees and other forest products while exercising conservation techniques to prevent the erosion of soils; and
- (3) Any]

comply with rules adopted by the department to implement this section and shall include any additional information required by the board. The application shall be signed by all persons having an interest in or holding any encumbrance upon the property and shall state that all of them will comply with the management plan upon its approval.

(b) All public hearings required by statute or rules of the department shall be held before any management plan is approved. The management plan shall be available to the public not less than thirty days before approval. Notice of its availability shall be published in the bulletin of the office of environmental quality control. The plan shall be reviewed periodically by the board or its employees or authorized agents at intervals of no more than every five years. The review shall determine whether the owner has met the objectives in the management plan. The board may approve or require in consultation with the landowner alteration of the management plan to adapt to current conditions.”

SECTION 3. Section 186-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If the board finds that the property identified in the application is suited for the raising of commercial tree species and other forest products in quantity sufficient to establish a business in the sale thereof, and that the use will not [convert] have a significant negative effect on a native forest ecosystem [into a monoculture], the property [shall] may be classified by the board as tree farm property.”

**ACT 208**

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

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

(Approved June 21, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 208**

S.B. NO. 3015

A Bill for an Act Relating to the Transfer of Inmates.

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

SECTION 1. There is a correctional crisis in the State. The problem of prison overcrowding is enormous, and is a matter of compelling state interest. In light of this, remedies are needed to promote and protect public safety.

The purpose of this Act is to authorize the director of public safety to transfer inmates to correctional facilities operated either by another state or a private institution, provided that the institution is in compliance with standards established by the American Correctional Association.

SECTION 2. Section 353-16.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director may effect the transfer of a committed felon to any [out-of-state] correctional institution located in [a] another state [which is not a member of the Western Interstate Corrections Compact if it is in] regardless of whether the state is a member of the Western Interstate Corrections Compact; provided that the institution is in compliance with the standards of the American Correctional Association, and operated either by that state or by a private institution; and provided further that the transfer is either:

(1) In the interest of the security or good management of the state correctional facility where the inmate is presently placed; or [in]

(2) In the interest of the inmate.

All transfers authorized pursuant to this subsection shall be in accordance with rules adopted by the director pursuant to chapter 91.”

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

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

(Approved June 21, 1994.)

**ACT 209**

S.B. NO. 3180

A Bill for an Act Relating to Public Utilities.

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

SECTION 1. Act 130, Session Laws of Hawaii 1992, as amended by Act 29, Session Laws of Hawaii 1993, is amended by amending Section 3 to read as follows:

“SECTION 3. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§269- Emergency rate action; interruption of fuel supply. (a) The rate payable by a public utility for energy purchased from a nonfossil fuel producer may temporarily exceed the rate approved or prescribed by the public utilities commission pursuant to section 269-27.2(c) or pursuant to rules adopted by the commission under [such] that section if the commission, upon application by the utility or the nonfossil fuel producer, approves [such] the higher rate and finds that the nonfossil fuel producer has demonstrated that:

- (1) The nonfossil fuel producer had agreed to supply or has supplied energy to the utility at the rate approved or prescribed by the commission based on the generation of such energy from a combination of nonfossil fuel sources and heavy fuel oil;
- (2) Heavy fuel oil is and will probably continue to be unavailable to the nonfossil fuel producer;
- (3) The nonfossil fuel producer has the ability to substitute a higher cost alternative fuel for the unavailable heavy fuel oil, and the payment of a rate in excess of the rate approved or prescribed by the commission is reasonably necessary:
  - (A) For the nonfossil fuel producer to continue to supply the energy to the public utility that was previously generated from heavy fuel oil; and
  - (B) For the public utility to provide a reliable supply of electricity to its customers;
- (4) The excess of the payment rate for such energy over and above the approved or prescribed rate is based solely on the higher cost of the alternative fuel used by the nonfossil fuel producer and is limited to the portion of the higher fuel cost that is not recovered by the nonfossil fuel producer through an increase in the utility's avoided energy cost and a resulting increase in the approved or prescribed rate;
- (5) The nonfossil fuel producer's production of electrical energy and use of existing nonfossil fuel sources, such as bagasse, for the generation of that energy will, at a minimum, continue at normal levels. Other Hawaii grown biomass may be used only to supplement and not to substitute for the existing nonfossil fuel sources. However, other Hawaii grown sources of biomass produced as a by-product by the producers of other agricultural crops may substitute for the existing nonfossil fuel sources; provided that the normal level of usage of the existing nonfossil fuel sources is reduced as a result of reduced yield due to growing conditions or reduced cultivated acreage due to agricultural or business practices or the existing nonfossil fuel sources being put to another economic use[; and]. This paragraph shall not apply to a nonfossil fuel producer of energy if the existing nonfossil fuel source is not available, and the nonfossil fuel producer continues to use other sources of nonfossil fuel and continues to generate electricity for sale to the utility under an existing agreement approved by the public utilities commission; and
- (6) The use of an alternative fuel by the nonfossil fuel producer is in the overall best interest of the general public, including consideration of



the environmental effects resulting from the use of a type of fuel other than heavy fuel oil.

(b) The higher rate that may be paid under subsection (a) shall be applicable only to the percentage of the energy that is normally produced by the nonfossil fuel producer and supplied to the public utility from heavy fuel oil, and shall be applicable only until the commission determines that heavy fuel oil is no longer unavailable to the nonfossil fuel producer, or until the commission determines that any of the other findings required by subsection (a) are no longer applicable. The higher rate that may be paid under subsection (a) shall include the excess alternative fuel costs allowable under this section from the date the nonfossil fuel producer commences generating energy supplied to the public utility using the higher cost alternative fuel; provided that the nonfossil fuel producer has provided written notice to the public utility, consumer advocate, and the commission prior to its switch to an alternate fuel and an application is filed with the commission not later than 30 days after the switch is made requesting approval of the higher rate. However, the higher rate shall not be payable until approved by the commission.

(c) As a condition to the applicability of subsection (a) to a nonfossil fuel producer, the nonfossil fuel producer shall provide such information to the commission, the consumer advocate, and the affected public utility as the commission deems necessary for the implementation of subsections (a) and (b).

(d) Any higher rate payable by the public utility under subsection (a) and related revenue taxes shall be passed on to the public utility's ratepayers through an automatic rate adjustment clause. At the commission's discretion, the higher rate payable by the public utility under subsection (a) and related revenue taxes may be passed on to ratepayers statewide through an automatic rate adjustment clause; provided that no such statewide increase shall be imposed unless the commission finds that:

- (1) The higher rate is estimated to result in an increase of more than fifteen per cent for the ratepayers of the affected utility; and
- (2) Such a statewide increase is otherwise appropriate and in the public interest.

A statewide increase may be imposed only upon the ratepayers of the affected utility and the ratepayers of other public utilities whose rates are lower than the rates of the affected public utility.

(e) The commission shall make every effort to complete its deliberations and issue its decision as expeditiously as possible.”

SECTION 2. Act 130, Session Laws of Hawaii 1992, as amended by Act 29, Session Laws of Hawaii 1993, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval; provided that subsection (b) of section 3 shall allow for retroactive effect to the extent provided in the subsection; provided further that section 1 of this Act shall be repealed effective June 30, 1996 and sections 2 and 3 of this Act shall be repealed effective June 30, [1994.] 1995. Applications seeking relief pursuant to section 3 of this Act shall be approved only where the amount in excess of the approved or prescribed rate will be either paid during the period of time section 3 is in effect, or assessed as a result of electricity purchased during the period of time section 3 is in effect.”

SECTION 3. The public utilities commission shall confer with utility

companies, the consumer advocate, nonfossil fuel energy producers, and other interested parties to determine the effects of amending Act 130 on: (a) electricity prices to consumers on each affected island; (b) the reliability of the electric systems on each island; (c) the contractual rights and obligations of the nonfossil fuel producers and the utility company on each affected island; (d) the cost of production of energy by each nonfossil fuel producer that has an existing agreement approved by the public utilities commission, where that producer uses sources of nonfossil fuel that differ from that contemplated in the agreement; (e) the state policy to support the development and use of alternate energy sources; (f) whether the liability cap in section 1 of Act 130 should be extended, repealed, or remain unamended to serve the best interest of the people of the State of Hawaii from an energy supply and consumer interest perspective; and (g) other relevant factors. The public utilities commission shall submit a report of its findings and recommendations to the legislature no later than twenty days prior to the convening of the 1995 regular session.

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

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

(Approved June 21, 1994.)

## ACT 210

S.B. NO. 3303

A Bill for an Act Relating to Solid Waste Pollution.

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

SECTION 1. The legislature finds that there is a need to protect the natural beauty and integrity of Hawaii's lands by improving and updating state laws relating to solid waste pollution, and strengthening the enforcement program under the solid waste pollution law.

It is the legislature's intent that the department of health be empowered to fine any person who:

- (1) Disposes of solid waste anywhere in the State other than a permitted solid waste disposal system;
- (2) Generates the illegally disposed solid waste; and
- (3) Facilitates the illegal disposal of solid waste.

The purpose of this Act is to provide a more effective means of solid waste disposal enforcement by authorizing the department of health to delegate its enforcement powers to the counties and allowing the counties to share in the revenues generated by the collection of fines and penalties issued under chapter 342H, Hawaii Revised Statutes.

SECTION 2. Chapter 342H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§342H- Department of health; delegation of enforcement powers.** The department, pursuant to rules adopted in accordance with chapter 91, may delegate to agencies of the various counties the powers or authority vested in the department to investigate alleged violations of section 342H-30(c)."

SECTION 3. Section 342H-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

““Inert fill material” means earth, soil, rocks, rock-like material such as cured asphalt, brick, and clean concrete with no exposed steel reinforcing rod longer than twelve inches, containing less than ten per cent vegetative material (such as shrubbery, brush, or trees). Any material containing more than five per cent by volume of solid waste other than vegetative material shall not be considered inert fill material for the purposes of this chapter.”

2. By amending the definition of “solid waste” to read:

““Solid waste” means garbage, refuse, and other discarded materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining, and agricultural operations, sludge from waste treatment plants and water supply treatment plants, and residues from air pollution control facilities and community activities, but does not include solid or dissolved materials in domestic sewage or other substances in water sources such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows, or other common water pollutants, or source, special nuclear, or by-product material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923)[.], or inert fill material.”

SECTION 4. Section 342H-10.5, Hawaii Revised Statutes, is amended to read as follows:

“[§342H-10.5] Disposition of collected fines and penalties. [Fines] Except as otherwise provided in this section, fines and penalties collected under sections 342H-9 and 342H-10 shall be deposited into the environmental response revolving fund established by section 128D-2. Where a county individually, or the state and a county jointly, initiates and conducts an investigation resulting in the imposition and collection of a fine or penalty, pursuant to section 342H-30(c), the fine or penalty shall be distributed as follows:

- (1) One half to the department of the county whose officers or employees initiated and conducted the investigation; and
- (2) One half to the environmental response revolving fund established in section 128D-2.”

SECTION 5. Section 342H-19, Hawaii Revised Statutes, is amended to read as follows:

“[§342H-19] Effect of laws, ordinances, and rules. (a) All laws, ordinances, and rules inconsistent with this chapter shall be void and of no effect.

(b) [Any] Except as provided in section 342H-30(c), any county may adopt ordinances and rules governing any matter relating to solid waste management [which] that is not governed by a rule of the department adopted pursuant to this chapter; provided that any county ordinance or rule relating to solid waste management shall be void and of no effect as to any matter regulated by a rule of the department upon [the] its adoption [thereof].”

SECTION 6. Section 342H-30, Hawaii Revised Statutes, is amended to read as follows:

"[~~§342H-30~~] **Prohibition.** (a) No person, including any public body, shall engage in the operation of an open dump[,] without first securing approval in writing from the director.

(b) No person, including any public body, shall operate a solid waste disposal system without first securing approval in writing from the director.

(c) No person, including any public body, shall discard, dispose of, deposit, discharge, or dump solid waste or by contract or otherwise arrange directly or indirectly for the disposal of solid waste in an amount greater than one cubic yard in volume anywhere other than a permitted solid waste disposal system without the prior written approval of the director. This prohibition shall not be deemed to supersede any other disposal prohibitions established under federal, state, or county law, regulation, rule, or ordinance."

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

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

(Approved June 21, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 211**

S.B. NO. 3309

A Bill for an Act Relating to Public Lands.

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

SECTION 1. The legislature recognizes that the steady decline of sugar in the agricultural sector and the severe financial problems that have resulted from the downturn in sugar production have threatened the economic stability and social fabric of the entire Hamakua and Hilo coast on the island of Hawaii. As a result, not only the residents of the Hamakua and Hilo coast communities, but the residents of the rest of the State as well, have an urgent need to ensure that the long-term economic stability of the Hamakua and Hilo coast regions are restored.

The legislature also recognizes that despite the immense challenges currently experienced by the Hamakua and Hilo coast communities in trying to find solutions to regain their economic stability and livelihood, the residents of these regions continue to demonstrate their resolve and determination to play a greater role in defining their future. The formation of the Hamakua/north Hilo agricultural co-op is a clear example of the way the citizens of the Hamakua and Hilo coast communities have worked together to initiate agricultural projects in the Hamakua and Hilo coast regions. Through the co-op, a variety of alternative crops, including a papaya project, a taro project, and a cattle project, are being pursued as viable agricultural projects to bring about the economic stability in the Hamakua and Hilo coast regions.

In addition, a Hamakua dislocated sugar workers' association has been formed to work with the co-op to help address the needs of dislocated sugar workers who are interested in the agricultural options available to them. Furthermore, in the effort to provide greater alternatives and solutions that will provide a

## ACT 211

smoother economic transition for the Hamakua community, a 2.4-acre parcel of state land in Paauhau was approved for use as a diversified agriculture project in the Hamakua region.

The legislature has also supported recovery efforts. Last year, through the enactment of Act 311, Session Laws of Hawaii 1993, the legislature responded to the needs of Hamakua residents by designating the entire Hamakua planning region, as described in the 1990 Hamakua regional plan, as a community development district. This designation authorizes the replanning, renewal, and redevelopment of the Hamakua region by the Hawaii community development authority. Also, the legislature, among other things:

- (1) Provided a state loan guarantee that ensured a final harvest at Hamakua Sugar; and
- (2) Appropriated \$100,000 as "start-up money" to assist the Hamakua housing corporation in protecting the interests of company workers and their families.

The purpose of this Act is to further the legislature's commitment to assist Hamakua and Hilo coast residents by enabling certain permittees on state lands in the Hamakua community development district and the Hilo coast region to obtain long term leases. Section 171-32, Hawaii Revised Statutes, provides that all dispositions of public lands shall be by lease only, disposed of by public auction, unless otherwise specifically authorized. If the lands now occupied by certain permittees are leased by public auction, there is a high probability that the permittees will not prevail as successful bidders on the land and will be displaced, thereby compounding the existing economic crisis within the Hamakua community development district and the Hilo coast region. On the other hand, the granting of long-term leases would provide assurance to the permittees of continued tenure on the land and would enable the permittees to obtain financing for improving their operations.

The legislature finds that:

- (1) It is in the public interest to assist qualified permittees who depend on state land in the Hamakua and Hilo regions for their livelihood;
- (2) The purpose of this Act is consistent with objectives of the Hawaii state plan; and
- (3) If the offer of assistance provided by this Act is accepted by qualified permittees, the State would realize greater returns from the long-term disposition of lands now under permit and would expedite the economic recovery of the Hamakua and Hilo regions.

It is the express intent of this Act that public lands under permit for purposes other than agricultural use be excluded from the scope of this Act.

SECTION 2. As used in this Act, except as otherwise specifically provided herein:

"Departments" mean the department of land and natural resources and the department of agriculture.

"Hilo coast region" consists of that portion of land on the island of Hawaii within the North Hilo and South Hilo districts, as defined in section 4-1, Hawaii Revised Statutes, bounded by a line starting in the vicinity of Ookala at the intersection of the shoreline and the boundary between the Hamakua and North Hilo districts, as defined in section 4-1, Hawaii Revised Statutes, and extending inland to its intersection with Saddle Road; extending eastward along Saddle Road and

then further eastward along Waianuenue Avenue; and ending with its projected extension to the shoreline of Hilo Harbor.

“Person” includes an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity engaging in an effort to create employment opportunities for residents of the Hamakua community development district and the Hilo coast region, especially employees and former employees of the Hamakua Sugar Company and the Hilo Coast Processing Company.

SECTION 3. The departments may negotiate and enter into leases of lands eligible under section 4 of not less than fifteen years but not more than thirty-five years with any person who, as of December 31, 1994, holds a revocable permit for a slaughterhouse and feedlot or for any other agricultural purpose, issued in accordance with section 166-6 or 171-55, Hawaii Revised Statutes.

SECTION 4. The lands eligible for lease negotiation under section 3 of this Act are limited to those lands:

- (1) Not needed by any state or county agency for any other public purpose;
- (2) Within the Hamakua community development district pursuant to section 206E-171, Hawaii Revised Statutes; or the Hilo coast region;
- (3) Zoned and used for agricultural purposes; and
- (4) Engaged in an effort to create employment opportunities.

SECTION 5. In negotiating and executing a lease as authorized by section 3, the board of land and natural resources and the board of agriculture shall:

- (1) Require appraisal of the parcel in accordance with section 171-17(b), Hawaii Revised Statutes;
- (2) Impose such other lease provisions, restrictions, and conditions provided by sections 171-35, 171-36, and 171-37, Hawaii Revised Statutes, as may be required to protect the State’s interests;
- (3) Recover from the lessee the cost of appraisal and surveying of the parcel incurred by the departments; and
- (4) Require the payment of an annual lease rent based on fair market value.

SECTION 6. The departments shall notify in writing the permittees of lands eligible for lease negotiations under this Act and shall inform the permittees of the terms, conditions, and restrictions provided by this Act. Any permittee may apply for a lease; provided that the application shall be submitted to the respective departments in writing within thirty days of the date of receipt of notification; and provided further that the departments may require documentary proof of any applicant to determine that the applicant meets the eligibility and qualification requirements for a lease as specified by this Act.

SECTION 7. Notwithstanding any other law to the contrary, including chapter 171, Hawaii Revised Statutes, the departments are authorized to negotiate and enter into lease agreements in accordance with the provisions and limitations of this Act; provided that the authority granted by this Act shall expire on

## ACT 212

June 30, 1996; and provided further that any lease agreement entered into pursuant to this Act shall not be affected by the June 30, 1996, expiration of authority in accordance with this Act.

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

(Approved June 21, 1994.)

## ACT 212

H.B. NO. 759

A Bill for an Act Relating to Employees' Retirement System.

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

SECTION 1. The legislature finds that providing an early retirement incentive is an effective way to:

- (1) Reduce employee compensation costs without imposing forced reductions in current staffing;
- (2) Maintain or increase the current level of employee productivity with the same or lesser compensation costs; and
- (3) Increase opportunities for lower and middle-level employees to move upward by filling the vacancies created by senior employees who retire.

According to the "Report of the Actuary on the 67th Annual Actuarial Valuation of the Employees' Retirement System of the State of Hawaii," as of March 31, 1992, there were 55,410 employees in active service enrolled in the employees' retirement system. Among contributory plan members, approximately 5,098 employees had more than twenty-five years of service. In the noncontributory plan, 1,054 employees had more than twenty-five years of service.

The legislature further finds that, in these times of economic turmoil, this Act would be instrumental in reducing costs and facilitating greater efficiency in government at the state and county levels. However, it is not the intent of the legislature to negatively impact education.

The purpose of this Act is to reduce the current payroll costs of the State and county governments by providing an early retirement incentive to those employees covered under the employees' retirement system who meet the requirements of this Act.

SECTION 2. (a) Any member of the employees' retirement system who has never been a retiree of the system shall be eligible for a one-time early retirement bonus under chapter 88, Hawaii Revised Statutes, of two additional years of service credit, which shall provide an unreduced benefit; provided that:

- (1) The member is:
  - (A) Not employed by the department of education or the University of Hawaii, formally notifies the employing agency by October 1, 1994, files a formal application for retirement not less than thirty days nor more than ninety days prior to the effective date of retirement, and retires by December 31, 1994; or

- (B) Employed by the department of education or the University of Hawaii, formally notifies the employing agency by October 1, 1994, files a formal application for retirement not less than thirty days nor more than ninety days prior to the effective date of retirement, and retires on June 30, 1995;
- (2) The member has at least twenty-five years of credited service as a contributory class A or class B member or a noncontributory class C member as of December 31, 1994, exclusive of the bonus provided in this subsection;
  - (3) The additional service credit shall not increase the amount of total credited service or retirement allowance of the member beyond any maximum limitation on service credit or retirement allowance established by chapter 88, Hawaii Revised Statutes; and
  - (4) The member shall forfeit the additional service credit and any other benefit provided by chapter 88, Hawaii Revised Statutes, that was based on the early retirement bonus upon subsequent reentry into the employees' retirement system.

(b) The mayor of the respective county, the board of education, the board of regents, and the chief justice may exercise discretion with respect to participation in this program and shall transmit a list of participants to the board of trustees of the employees' retirement system by November 1, 1994.

(c) The department heads of the executive and legislative branches shall transmit a list of participants to the board of trustees of the employees' retirement system by November 1, 1994.

SECTION 3. (a) Except for positions in the department of education and the University of Hawaii, with respect to positions in the executive branch vacated pursuant to section 2:

- (1) Thirty per cent of the positions vacated in each department may be refilled by the head of the department to ensure the continued ability of the department to carry out its public purpose;
  - (2) Thirty per cent of the positions vacated in each department shall be held vacant for fiscal year 1995-1996 and shall be assigned to a statewide personnel pool; provided that after June 30, 1996, the governor may propose the transfer of vacant positions between executive departments as necessary to fill essential positions, subject to approval by the legislature through the executive budget; and
  - (3) Forty per cent of the positions vacated in each department shall be eliminated.
- (b) With respect to positions in the judiciary vacated pursuant to section 2:
- (1) Thirty per cent of the positions vacated may be refilled by the chief justice to ensure the continued ability of the judiciary to carry out its public purpose;
  - (2) Thirty per cent of the positions vacated shall be held vacant for fiscal year 1995-1996; and
  - (3) Forty per cent of the positions vacated shall be eliminated.
- (c) With respect to positions in the University of Hawaii vacated pursuant to section 2:
- (1) Seventy per cent of the positions vacated may be refilled by the president of the University of Hawaii, with the approval of the board of regents; provided that these positions shall be reallocated as necessary to restructure and organize the university to ensure the



continued provision of appropriate, direct, student-related services; and

- (2) Thirty per cent of the positions vacated shall be held vacant for fiscal year 1995-1996; provided that after June 30, 1996, the president of the University of Hawaii may propose the transfer of vacant positions between divisions, programs, and departments as necessary to fill essential positions, subject to approval by the legislature through the executive budget.

(d) With respect to positions in the department of education vacated pursuant to section 2, twenty per cent of the vacated statewide administrative positions shall be eliminated.

(e) Funding allocations for positions vacated pursuant to this Act and refilled pursuant to this section shall be computed on the basis of the average monthly salary of the department from which the person retired, and shall be distributed accordingly. All amounts already allocated for positions vacated pursuant to this Act shall be returned to the general fund. Each department shall report its position reallocations to the director of finance, who shall report this information to the legislature no later than twenty days prior to the convening of the regular session of 1996.

SECTION 4. The board of trustees of the employees' retirement system shall make payments with respect to all eligible employees who retire pursuant to this Act.

The board shall determine the amount equal to the actuarial present value of the difference between the allowances members receive after the receipt of service credit under this Act and the allowances members would have received without the two years of additional service credit. The board shall also determine the portion of the additional actuarial present value of benefits to be charged to the State and to each county, based on retirements during the early retirement incentive bonus period. The State and counties shall make separate additional payments to the employees' retirement system in the amounts required to liquidate the additional actuarial present value of benefits over a period of five years beginning July 1, 1997.

SECTION 5. 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 fiscal year 1994-1995, to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this Act.

SECTION 6. This Act shall take effect on July 1, 1994.

(Approved June 22, 1994.)

**ACT 213**

H.B. NO. 1088

A Bill for an Act Relating to Tort Liability.

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

SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§663- Government entity as a tortfeasor; abolition of joint and several liability.** Notwithstanding the provisions of sections 663-11 to 663-17 and section 663-31, in any case where a government entity is determined to be a tortfeasor along with one or more other tortfeasors, the government entity shall be liable for no more than that percentage share of the damages attributable to the government entity.

For purposes of this section, “government entity” means any unit of government in this State, including the State and any county or combination of counties, department, agency, institution, board, commission, district, council, bureau, office, governing authority, or other instrumentality of state or county government, or corporation or other establishment owned, operated, or managed by or on behalf of this State or any county.

For purposes of this section, the liability of a government entity shall include its vicarious liability for the acts or omissions of its officers and employees.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall apply only to causes of action based upon acts or omissions occurring on or after its effective date.

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

(Approved June 22, 1994.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 214

H.B. NO. 1317

A Bill for an Act Relating to Disclosures in Real Estate Transactions.

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

SECTION 1. The legislature finds that a home is the single largest investment most people make in a lifetime. Because of this, it is important that all relevant information regarding a home’s condition be provided to buyers. Statistics show that approximately sixty-seven per cent of lawsuits involving real estate transactions are based on misrepresentations. The seller, who is frequently also the occupant, is better informed than the real estate agent to provide details relating to the condition of the property.

Hawaii has rejected the common law position of caveat emptor or “let the buyer beware,” and has adopted a system of full disclosure. To retain their license, real estate licensees have a duty to not only be fair to all parties in real estate transactions, but also to ascertain and disclose material facts.

A real estate licensee is an agent for a principal. If the principal is the seller of real property, the seller gives the agent authority to make representations about the property. Absent supervening responsibilities imposed by the State, the agent can only work within the scope of authority given by the principal. Fiduciary duties of loyalty, fidelity, and obedience to legitimate instructions require the agent not to undermine the position of the seller by providing too much information.

The purpose of this Act is to establish mandatory seller disclosures of material facts in real estate transactions in the State.

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

**“CHAPTER  
MANDATORY SELLER DISCLOSURES  
IN REAL ESTATE TRANSACTIONS**

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

“Disclosure of real property condition statement” or “statement” means a written statement prepared by the seller or at the seller’s direction, that fully and accurately discloses any material fact, defect, or condition, past or present, relating to the residential real property being offered for sale that may influence the decision of the buyer, based on the seller’s or the seller’s agent’s observation of:

- (1) Visible, accessible areas;
- (2) Related recorded and unrecorded documents;
- (3) Information available from governmental agencies; and
- (4) Information within the knowledge and control of the seller.

The statement shall not be construed as a warranty of any kind, or a substitute for any expert inspection, professional advice, or warranty that the buyer may wish to obtain.

“Material change” means any change which affects the information contained in a disclosure of real property condition statement in any one of the following ways:

- (1) Renders it misleading;
- (2) Substantially affects the rights or obligations of a buyer; or
- (3) May reasonably affect a buyer’s decision to buy, including changes in the use, size, value, restrictive covenants, and encumbrances.

“Real estate purchase contract” means a contract, including a deposit, receipt, offer, acceptance, or other similar agreement for the sale, exchange, long-term lease without option to buy, or lease with option to buy of real property, and any amendments to the contract.

“Transfer or disposition of residential real property” includes a sale, exchange, auction, long-term lease without option to buy, or lease with option to buy.

§ -2 **Applicability.** Except as otherwise provided for in this chapter, this chapter applies to any transfer or disposition of an improved or unimproved residential lot or residential real property consisting of one to four dwelling units, including:

- (1) A condominium apartment; and
- (2) A cooperative apartment.

§ -3 **Exemptions.** The provisions of this chapter shall not apply to the transfer or disposition of residential real property:

- (1) To a co-owner;
- (2) To a spouse, parent, or child of the seller;
- (3) To any transfer by devise, descent, or court order;
- (4) By operation of law, including but not limited to any transfer by foreclosure, bankruptcy, or partition sales;

- (5) Resulting from conversion of lease land to fee simple;
- (6) To initial sales of new single family dwelling units under a current public offering statement;
- (7) Made pursuant to chapter 521, the residential landlord-tenant code;
- (8) When the seller and buyer agree in writing that the transfer will not be covered under this chapter as outlined in section -10; or
- (9) Regarding the initial sales of condominium apartments under an unexpired public report.

§ **-4 Prohibitions on transfers or disposition of residential real property.** Except as provided in section -3, no seller may transfer or dispose of any interest in residential real property subject to the disclosure requirements of this chapter unless:

- (1) Prior to the transfer or disposition of residential real property, a disclosure of real property condition statement is:
  - (A) Signed by the seller and dated within six months of the acceptance of an offer to purchase; and
  - (B) Delivered to the buyer as provided in section -5;
- (2) The buyer is afforded a reasonable opportunity to examine the statement as provided in section -5; and
- (3) The buyer acknowledges receipt of the statement on the real estate purchase contract in any addendum attached to the contract, or in a separate document, and indicates in writing any rescission of the offer.

§ **-5 Delivery of disclosure of real property condition statement to buyer; procedures.** (a) No later than ten calendar days from acceptance of an offer to purchase real property subject to this chapter, a seller, either directly or through the seller's agent, shall provide the statement to the buyer.

(b) Upon receipt of the statement, the buyer shall have fifteen calendar days to:

- (1) Examine the statement; or
- (2) Rescind the offer to purchase real property;

subject to this chapter. The buyer shall indicate in writing to the seller or through the seller's agent any rescission of the offer. Any rescission of the offer made pursuant to this subsection shall be without loss of deposits to the buyer. Furthermore, all deposits shall be immediately returned to the buyer.

(c) The seller and buyer, in writing, may agree to reduce or extend the time period provided for the delivery or examination and rescission period. The language in this subsection shall be included in the receipt for the statement.

§ **-6 Later discovered inaccurate information.** Within the time period as provided in section -17, a buyer who receives a statement that fails to disclose material facts or defects, or contains an inaccurate assertion that an item is not applicable, and who was not aware of the foregoing failures or inaccuracies, shall indicate in writing an election to rescind the real estate purchase contract within fifteen calendar days of the discovery or receipt of an amended corrected statement, in the manner provided by subsections -5(b) or (c). The buyer may pursue all additional remedies provided by law.

§ **-7 Seller's agent's duties and responsibilities for disclosure.** (a) Any person or entity, other than a real estate licensee, acting in the capacity of an

escrow agent for the transfer or disposition of real property subject to this chapter, shall not be deemed the agent of the seller or buyer for purposes of the disclosure requirements of this chapter unless the seller or buyer and the escrow agent agree in writing to the establishment of the agency.

(b) When a seller's agent cannot obtain the statement and does not have written assurances from the buyer that the statement was received, the seller's agent shall provide a written notice to the buyer of the rights to the statement and rights of rescission provided by this chapter. The seller's agent responsible for delivering the statement shall maintain a record of the action taken to effect compliance.

(c) If the seller's agent's inspection of the residential real property reveals facts inconsistent with or contradictory to the disclosure of the real property condition statement or the inspection report of a third party, the seller's agent shall disclose these facts to the seller, the buyer, and their agents.

**§ -8 Excluded facts from the disclosure of real property condition statement.** Except as otherwise provided by law the following material facts may be excluded from the statement:

- (1) An occupant of the subject property was afflicted with acquired immune deficiency syndrome (AIDS) or AIDS related complex (ARC), or had been tested for human immunodeficiency virus (HIV);
- (2) The real property was the site of an act or occurrence that had no effect on the physical structure or the physical environment of the real property, or the improvements located on the real property; or
- (3) A homicide, felony, or suicide occurred on the real property more than three years before the date the seller signed the statement.

**§ -9 Good faith in preparing the disclosure of real property condition statement.** (a) A seller or the seller's agent shall prepare the disclosure of real property condition statement in good faith. A buyer shall have no cause of action against a seller or seller's agent for, arising out of, or relating to the providing of a statement when the statement is prepared with due care and in good faith. For purposes of this section, "good faith" includes honesty in fact in the investigation, research, and preparation of the statement and includes information on the following:

- (1) Facts based on only the seller's personal knowledge;
- (2) Facts provided by governmental agencies and departments;
- (3) Reports prepared for the seller by a:
  - (A) Licensed engineer;
  - (B) Land surveyor;
  - (C) Geologist;
  - (D) Wood-destroying insect control expert; or
  - (E) Contractor, or other home inspection expert; dealing with matters within the scope of the professional's license or expertise for the purpose of the disclosure of real property condition statement; and
- (4) An approximation of the information, when material information required to be disclosed is unknown or not available to the seller, and the seller or seller's agent make reasonable efforts to ascertain the information; provided the approximation is:
  - (A) Clearly identified as an approximation;
  - (B) Reasonable;

- (C) Based on the best information available to the seller or seller's agent; and
- (D) Not used for the purpose of circumventing or evading the requirements of this chapter.

(b) The representations contained in the disclosure of a real property condition statement shall be construed to be made only to, and to be used only by, a buyer whose identity has been made known to the seller, a lending institution, or an escrow company involved in processing a real estate purchase contract.

§ **-10 Absentee owners and disclosure.** A seller who has not lived in the property for at least one hundred eighty days prior to the date of receiving an offer may issue a disclaimer that the seller does not have the requisite personal knowledge to make accurate disclosures about the real property, or provide a statement subject to section -9(a)(4). The seller and the buyer may agree to:

- (1) Substitute an inspection report by a home inspector, licensed contractor, or licensed appraiser covering the same matters as would have been included in a statement; or
- (2) Waive the applicability of section -4 in writing.

§ **-11 Disclosure forms.** The form for the statement shall include at least the following:

- (1) A notice to buyer and seller that the parties may wish to obtain professional advice and inspections of the property;
- (2) A notice to the buyer that the information contained in the statement is the representation of the seller and not the representation of the seller's agent; and
- (3) A notice of the buyer's rescission rights pursuant to this chapter.

§ **-12 Indication of receipt of condition statement.** (a) The seller and buyer shall indicate receipt of the seller's disclosure of real property condition statement on the real estate purchase contract, in any addendum attached to the contract, or in a separate document.

(b) Receipts taken for the disclosure of real property condition statement shall be kept on file in possession of the seller, seller's agent, or escrow company, for a period of three years from the date the receipt was taken.

§ **-13 Subsequent material facts.** Information in a statement that becomes inaccurate as a result of an act or agreement after the statement is provided to the buyer does not violate this chapter. However, the seller is required to provide an amended statement to the buyer within ten calendar days after the discovery of the inaccuracy.

§ **-14 Additional disclosure requirements.** The requirements of this chapter are in addition to all other disclosure obligations required by law relating to the transfer or disposition of residential real property.

§ **-15 Notification required; ambiguity.** (a) When residential real property lies:

- (1) Within the boundaries of a special flood hazard area as officially designated on Flood Insurance Administration maps promulgated by the United States Department of Housing and Urban Development for the purposes of determining eligibility for emergency flood insurance programs;

- (2) Within the boundaries of the noise exposure area shown on maps prepared by the department of transportation in accordance with Federal Aviation Regulation Part 150-Airport Noise Compatibility Planning (14 Code of Federal Regulations Part 150) for any public airport;
- (3) Within the boundaries of the Air Installation Compatibility Use Zone of any Air Force, Army, Navy, or Marine Corps airport as officially designated by military authorities; or
- (4) Within the anticipated inundation areas designated on the department of defense's civil defense tsunami inundation maps;

subject to the availability of maps that designate the four areas by tax map key (zone, section, parcel), the seller shall include such material fact information in the statement provided to buyers subject to this chapter. Each county shall provide, where available, maps of its jurisdiction detailing the four designated areas specified in this subsection. The maps shall identify the properties situated within the four designated areas by tax map key number (zone, section, parcel) and shall be of a size sufficient to provide information necessary to serve the purposes of this section. Each county shall provide legible copies of the maps and may charge a reasonable copying fee.

(b) When it is questionable whether real property lies within any of the designated areas referred to in subsection (a) due to the inherent ambiguity of boundary lines drawn on maps of large scale, the ambiguity shall be construed in favor of the seller provided a good faith effort has been made to determine the applicability of subsection (a) to the subject real property.

(c) Nothing in this section shall affect the validity of title to real property transferred, based solely on the reason that any seller or seller's agent failed to conform to the provisions of this section.

§ **-16 Remedies; voidable contracts.** (a) A buyer may elect to complete the purchase of real property even if the seller fails to comply with the requirements of this chapter.

(b) When the buyer is provided a timely good faith disclosure of real property condition statement and the buyer decides to rescind the real estate purchase contract, the buyer is limited in damages to the return of all deposits.

(c) When the seller negligently fails to provide the required disclosure of real property condition statement pursuant to this chapter, the seller shall be liable to the buyer for the amount of the actual damages suffered as a result of the negligence.

(d) When the seller willfully violates this chapter, or fails to perform a duty required by this chapter, the seller is liable to the buyer for up to three times the actual damages suffered by the buyer as a result of the violation or failure.

(e) In addition to the remedies allowed under subsections (b), (c), or (d), a court may also award the buyer attorney fees, court costs, and administrative fees.

§ **-17 Limitation of actions.** (a) Any action brought under this chapter shall commence within two years from the date the buyer received the statement; provided that if no statement was delivered to the buyer, then the action shall commence within two years of the recorded sale or occupancy; except where the parties have agreed in writing that the disclosures required by this chapter shall be waived.

(b) This chapter supersedes all other laws relating to the time for commencement of actions for failure to make the disclosures required by this chapter.

§ **-18 Arbitration or mediation.** Prior to filing an action in a higher court to enforce the provisions of this chapter, a seller or buyer shall first submit the claim to arbitration pursuant to chapter 658 or mediation. However, it is not the intent of this section to limit the buyer's remedies pursuant to this chapter.

§ **-19 Severability.** If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application, and to this end the provision of this chapter are severable.

§ **-20 Penalty.** Any person who violates this chapter shall be liable for a civil penalty of \$1,000 to the buyer and actual damages of the buyer, if any, reasonable attorneys' fees, court costs, and administrative fees, in addition to any other remedies pursuant to this chapter and provided by law."

SECTION 3. Section 467-31, Hawaii Revised Statutes, is repealed.

SECTION 4. This Act shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Statutory material to be repealed is bracketed.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 1995.

(Approved June 22, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 215**

H.B. NO. 1712

A Bill for an Act Relating to Electricians.

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

SECTION 1. In light of the increased complexity created by technological advances in the electrical trade and corresponding updates to the National Electrical Code, the legislature finds that there is a need to require electricians licensed by the State to demonstrate continued competency in their profession as a condition for subsequent relicensing. For experienced electricians, successful completion of appropriate coursework related to current updates of the National Electrical Code would satisfy the continued competence requirement. The legislature finds that this method is the most effective means of ensuring continued competence for experienced electricians. Alternatively, for newly licensed electricians, the legislature finds that successful completion of a test is more appropriate and consistent with current training and educational practices in this field and the anticipated increases in the volume and complexity of future updates to the National Electrical Code requirements.

The purpose of this Act is to implement continued competency requirements for the relicensing of electricians to ensure the public's health and safety.



SECTION 2. Chapter 448E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§448E-     **Continued competency; license renewals.** Effective July 1, 1996, all journeyworker electricians, journeyworker industrial electricians, journeyworker specialty electricians, supervising electricians, supervising industrial electricians, and supervising specialty electricians licensed by the board prior to June 30, 1996, shall furnish the board with proof of attendance at an educational course related to current updates of the National Electrical Code conducted by the community colleges, prior to each license renewal, and all such electricians licensed by the board after June 30, 1996, shall successfully complete an examination prescribed by the board on current updates to the National Electrical Code prior to each license renewal. The board shall contract with a professional testing agency to prepare, administer, and grade the examination. Fees related to the examination shall be paid by the licensee directly to the profession testing agency.”

SECTION 3. Section 448E-4, Hawaii Revised Statutes, is amended to read as follows:

“§448E-4 **Powers and duties of board.** In addition to any other powers and duties authorized by law, the board shall have all the powers and duties necessary or convenient to [carry out and] effectuate [the purposes and provisions of] this chapter, including[, without limitation,] but not limited to the following powers and duties:

- (1) To grant licenses which shall be renewable [on a biennial basis to:] for:
  - (A) Journeyworker electricians;
  - (B) Journeyworker specialty electricians;
  - (C) Supervising electricians;
  - (D) Supervising specialty electricians;
  - (E) Master plumbers;
  - (F) Journeyworker plumbers;
  - (G) Maintenance electricians;
  - (H) Journeyworker industrial electricians; and
  - (I) Supervising industrial electricians;
- (2) To adopt, amend, or repeal [such] rules in accordance with chapter 91 as it may deem proper to effectuate this chapter and to insure the safety and welfare of the general public[. All rules shall be adopted pursuant to chapter 91. The]; provided that the rules may forbid acts or practices deemed by the board to be detrimental to the accomplishment of the purpose of this chapter;
- (3) To enforce this chapter and rules adopted pursuant [thereto] to this chapter and chapter 91, including the denial, suspension, or revocation of any license; and
- (4) To examine all applicants and licensees to determine their qualifications prior to the issuance or renewal of licenses.”

SECTION 4. Section 448E-8, Hawaii Revised Statutes, is amended to read as follows:

“§448E-8 **Fees; [biennial] renewals.** [The biennial renewal fee] Renewal fees shall be paid to the board before July 1 [of each even-numbered year].

Plumbers shall renew the license each even-numbered year. Electricians shall renew the license every three years effective with the July 1, 1996, renewal; provided that the applicant shall pay all required fees prior to the renewal of the license; and provided further that the applicant shall meet the requirements prescribed in section 448E-\_\_\_\_\_. Failure, neglect, or refusal of any licensee to either pay the [biennial] renewal fee, or in the case of an electrician to meet the requirements of section 448E-\_\_\_\_\_, before [such] the renewal date shall constitute a forfeiture of the license. Any license so forfeited may be restored upon written application [therefor] within one year from [that] the date [and the] of forfeiture, upon payment of the required renewal fee plus [an amount equal to ten per cent thereof.] penalty fees, and for electricians, meeting the requirements in section 448E-\_\_\_\_\_.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 1995.

(Approved June 22, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 216**

H.B. NO. 2071

A Bill for an Act Making an Appropriation for an Add-on, Non-profit, Long-term Health Care Facility to Pohai Nani Care Center.

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

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to part II, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$1,000,000, in one or more series, for the purpose of assisting the Pohai Nani Care Center with the financing or refinancing, or both, of the plans, design, and construction of an add-on, nonprofit, long-term health care facility. The legislature finds and determines that the activities and facilities of the Pohai Nani Care Center constitute a project as defined in part II, chapter 39A, Hawaii Revised Statutes, and that the financing thereof is assistance to a health care facility.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part II, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

SECTION 4. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 1998.

## ACT 217

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1, or so much thereof as may be necessary for fiscal year 1993-1994, and the same sum, or so much thereof as may be necessary for fiscal year 1994-1995, for a nonprofit long-term health care facility to be added on to Pohai Nani Care Center.

SECTION 6. The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 7. This Act shall take effect on July 1, 1993.

(Approved June 22, 1994.)

## ACT 217

H.B. NO. 2312

A Bill for an Act Relating to Marriage.

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

**SECTION 1. Legislative findings and purpose.** The legislature finds that Hawaii's marriage licensing laws were originally and are presently intended to apply only to male-female couples, not same-sex couples. This determination is one of policy. Any change in these laws must come from either the legislature or a constitutional convention, not the judiciary. The Hawaii supreme court's recent plurality opinion in *Baehr v. Lewin*, 74 Haw. 530, 852 P.2d 44 (1993), effaces the recognized tradition of marriage in this State and, in so doing, impermissibly negates the constitutionally mandated role of the legislature as a co-equal, coordinate branch of government.

In *Baehr v. Lewin*, the Hawaii supreme court was asked to review whether the refusal of the department of health to issue marriage licenses to same-sex couples violated the couples' constitutional rights, *inter alia*, the right to equal protection of the laws under Article I, section 5 of the Hawaii Constitution. The court, in analyzing section 572-1, declared that its plain language restricted the marital relation to a male and a female. The court held that section 572-1, on its face, discriminated on the basis of sex against the same-sex couples in the exercise of the civil right of marriage, thereby implicating the equal protection clause of the Hawaii Constitution.

The court in *Baehr* further held that sex was a suspect category for purposes of equal protection analysis, thereby subjecting section 572-1 to strict scrutiny. Under strict scrutiny analysis, a statute is presumed to be unconstitutional unless compelling state interests are shown which justify the statute's impermissible classification. The court therefore held that section 572-1 is presumed to be unconstitutional unless the State can show that: (1) the statute's sex-based classification is justified by compelling state interests; and (2) the statute is narrowly drawn to avoid unnecessary abridgments of the same-sex couples' constitutional rights.

Although the Hawaii supreme court has the right to pass on the constitutionality of section 572-1, Hawaii Revised Statutes, the question before the court in *Baehr* was and is essentially one of policy, thereby rendering it inappropriate for judicial response. Policy determinations of this nature are clearly for nonjudicial discretion, and are more properly left to the legislature or the people of the State through a constitutional convention. Contrary to the plurality's assertion

that it was not engaging in judicial legislation, the court's intervention in this matter encroaches on the functions of the legislature in its law-making function, thereby impinging on the separation of powers of the respective branches of government.

Separation of powers is necessary for the functional division of governmental power that is the foundation of our constitutional democracy. The Hawaii state legislature, as the elected representatives of the people of the State of Hawaii, is, along with the executive branch, the appropriate source of major policy initiatives. The Hawaii supreme court in *Baehr* has in effect substituted its own judgment for the will of the people of this State. Deferral of this matter to the legislature therefore would have expressed the respect due a coordinate branch of government.

In addition to the plurality's failure to defer to the policy judgment of the legislature, the court also failed to afford sufficient weight to the strong presumption that every statute is constitutional. In the view of the legislature, the parties in *Baehr* challenging the constitutionality of section 572-1, Hawaii Revised Statutes, failed to overcome this presumption.

The plurality in *Baehr* relied on the observation in *Loving v. Virginia*, 388 U.S. 1, 87 S. Ct. 1817, 18 L. Ed. 2d 1010 (1967), that any state's powers to regulate marriage are subject to the constraints imposed by the constitutional right to the equal protection of the laws. However, as the dissent in *Baehr* correctly points out, the plaintiff in *Loving* was not claiming a right to a same-sex marriage, but instead involved a marriage between a white male and a black female whose marriage was refused recognition under Virginia's miscegenation laws. The United States Supreme Court in *Loving* relied on the Fourteenth Amendment to the United States Constitution in holding that Virginia's statute containing a race-based classification violated the equal protection of the laws.

The Fourteenth Amendment, a post-Civil War amendment added to the Constitution in 1868, was designed to expand the Thirteenth Amendment as the basis for federal civil rights authority, and was also aimed at forcing southern compliance with newly established political rights for blacks. The language of the Fourteenth Amendment not only reversed the citizenship holding in *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393, 15 L. Ed. 691 (1857), but allowed federal authority to be used to protect and advance the civil rights of black citizens. The Supreme Court later held in *Brown v. Board of Education of Topeka*, 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 2d 873 (1954), that racial segregation in public schools imposed by law violated the Fourteenth Amendment's equal protection clause.

The United States Supreme Court in *Loving* made clear that the Fourteenth Amendment was intended to eliminate racial discrimination, and that restricting the freedom to marry solely because of racial classifications violated the central meaning of the equal protection clause. In contrast, the Hawaii supreme court in *Baehr* has interpreted Article I, section 5 in a manner not intended by the framers of Hawaii's Constitution, by analyzing the equal protection issue presented in that case in terms of sexual orientation or preference classifications in place of gender classifications. The plurality's reliance on the *Loving* decision in *Baehr* is therefore inapposite to its interpretation of Article I, section 5, of the Hawaii Constitution with respect to same-sex marriages. Although the State of Hawaii clearly has the power to regulate marriages in the State, which in turn is subject to the constraints imposed by the right to equal protection of the laws, the invalidation of the race-based classification in *Loving* is simply not parallel to the sex-based classification in *Baehr*.

The Hawaii Constitution's equal protection clause differs from that of the United States Constitution in part by the former's inclusion of the word "sex". Article I, section 5 provides in pertinent part that "[n]o person shall be ... denied the equal protection of the laws, nor be denied the enjoyment of the person's civil rights or be discriminated against in the exercise thereof because of ... sex ...." The Baehr Court correctly points out that, by its plain language, this section "prohibits state-sanctioned discrimination against any person in the exercise of his or her civil rights on the basis of sex". *Id.*, slip op. at 29. However, the plurality's subsequent interpretation of the word "sex" in this context demonstrates that although the opinion purports to express the word "sex" in terms of "gender", in reality the court misinterprets the word "sex", in the context of Article I, section 5, in terms of "sexual orientation" or "sexual preference". This interpretation was not intended by the framers of Hawaii's Constitution.

The word "sex" was included in the equal protection clause in Hawaii's Constitution as adopted by the people of the State in 1950. No discussion was made regarding inclusion of this word in the testimony or other minutes of the first Constitutional Convention. The only other reference to "sex" in the Constitution is in Article I, section 3 of the Hawaii Constitution, Hawaii's version of the equal rights amendment adopted in 1972, which provides in relevant part that "[e]quality of rights under the law shall not be denied or abridged by the State on account of sex." The legislative history of this amendment analyzes this word in terms of gender rather than sexual orientation:

Your Committee believes all persons are free by nature and are equal in their inherent and inalienable rights. ... These rights cannot endure unless women along with men recognize and possess their corresponding obligations, responsibilities, and privileges equally. It is the affirmative duty of the people through their elected representative to ensure that no person shall be discriminated for so long as the precept of our government, the equality of all people, outweighs the purpose of distinguishing that person by class.

Standing Committee Report No. 394-72 (Judiciary) on S.B. No. 1408-72. During the latest Constitutional Convention in 1978, there was no debate regarding the word "sex" in Article I, section 5. If the delegates to the respective conventions had intended "sex" to mean "sexual orientation", there most likely would have been a lively discussion on this issue. The fact that there is no debate at all on this issue lends strong credence to the implication that "sex" meant "gender".

In addition, in enacting legislation prohibiting discrimination on the basis of sex, the legislature distinguishes between sex (in the sense of "gender") and sexual orientation. For example, in section 368-1, Hawaii Revised Statutes, the legislature found that the practice of discrimination because of "race, color, religion, age, sex, sexual orientation, marital status, national origin, ancestry, or disability in employment, housing, public accommodations, or access to services receiving state financial assistance is against public policy." See also sections 42D-3(2) and 378-2(1), Hawaii Revised Statutes.

Viewed from this context, it is apparent that section 572-1, Hawaii Revised Statutes, and all of Hawaii's marriage licensing statutes, do not deny equal protection of the laws under Article I, section 5 of the Hawaii Constitution. There simply is no class of individuals under that section that have been discriminated against in relation to another group of similarly situated individuals. Because all men and all women are treated alike by section 572-1, there is no sex- (i.e., gender-) based classification.

The legislature finds that the prohibition against discrimination on the basis of sex in Article I, section 5 of the Hawaii Constitution is for the purpose of protecting gender equality. In other words, “sex” means gender, not sexual orientation, for purposes of both the marriage licensing statutes and Article I of the Hawaii Constitution. The court in Baehr, in analyzing the equal protection issue presented in that case in terms of sexual orientation or preference classifications rather than gender classifications, impermissibly expanded the intention of that word as it appears both in the marriage statutes and the Constitution. This interpretation was not the intent of the framers of Hawaii’s Constitution in 1950, nor has it ever been the intent of the Hawaii legislature. Any change in this purely policy determination lies wholly within the province of the legislature or a constitutional convention.

The legislature further finds that section 572-1, Hawaii Revised Statutes, and all of Hawaii’s marriage licensing statutes, as originally enacted, were intended to foster and protect the propagation of the human race through male-female marriages. This original intent was acknowledged by the court in Baehr in its discussion of the fundamental right to marry:

The United States Supreme Court first characterized the right of marriage as fundamental in *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535, 62 S. Ct. 1110, 86 L. Ed. 1655 (1942). In Skinner, the right to marry was inextricably linked to the right of procreation. The dispute before the Court arose out of an Oklahoma statute that allowed the state to sterilize “habitual criminals” without their consent. In striking down the statute, the Skinner court indicated that it was dealing ... with legislation which involve[d] one of the basic civil rights of man. Marriage and procreation are fundamental to the very existence and survival of the race.” *Id.* at 5441, 62 S. Ct. at 1113...

Baehr v. Lewin, slip op. at 18-19 (emphasis added). In addition, the Hawaii supreme court expressed the same sentiments by quoting with approval from the United States Supreme Court’s opinion in *Zablocki v. Redhail*, 434 U.S. 374, 98 S. Ct. 673, 54 L. Ed. 2d 618 (1978):

Long ago, in *Maynard v. Hill*, 125 U.S. 190, 8 S. Ct. 723, 31 L. Ed. 654 (1888), the Court characterized marriage as “the most important relation in life,” *id.*, at 205, 8 S. Ct., at 726, and as “the foundation of the family and of society, without which there would be neither civilization nor progress,” *id.*, at 211, 8 S. Ct., at 729. In *Meyer v. Nebraska*, 262 U.S. 390, 434 S. Ct. 625, 67 L. Ed. 1042 (1923), the Court recognized that the right “to marry, establish a home and bring up children” is a central part of the liberty protected by the Due Process Clause ...

*Id.*, slip op. at 20 (citations omitted).

Although the Court in Baehr cited these United States Supreme Court opinions in the context of rejecting the contention that the right to marry, as protected by Article I, section 6 of the Hawaii Constitution, extends to same-sex couples, the United States Supreme Court’s underlying rationale for the enactment of marriage licensing laws in general applies equally to Hawaii’s marriage licensing statutes. As the plurality in Baehr stated, “the least that can be said is that [the Skinner Court] was obviously contemplating unions between men and women when it ruled that the right to marriage was fundamental.” *Id.*, slip op. at 19.

Consistent with the traditional definition of marriage — man and woman — as acknowledged in Baehr, at the present time neither this State, nor any of the other states, sanctions by statute any marriage configuration other than unions between men and women.

The legislature notes that section 572-1 was amended by Act 119, Session Laws of Hawaii 1984, by deleting the requirement that marriage applicants show that they are not impotent or not physically incapable of entering into a marriage. The intent of this amendment was to remove any impediment that may have prevented persons who were physically handicapped or elderly, or who had temporary physical limitations, from entering into a valid marriage. This amendment, however, does not detract from the original purpose of section 572-1. As such, the statute's sex-based classification is clearly designed to promote this legislative purpose and bears a reasonable relationship to that purpose.

The legislature finds that Hawaii's marriage licensing statutes, both as originally enacted and at present, are intended to apply only to male-female couples, not same-sex couples. The Court in Baehr has effectively usurped the role of the Hawaii state legislature on this issue by substituting its own policy judgment for that of the people of Hawaii. The legislature stresses that since the determination of the nature of the marital relationship, together with its rights and benefits, falls more appropriately within the province of the legislature as one of policy, this issue is more properly dealt with in the legislative rather than judicial forum. Under the principle of separation of powers, the Court therefore should have deferred to the legislature in its determination and interpretation of the marriage contract.

The purpose of this Act is to:

- (1) Emphasize that expanding the definitions of "sex" in Article I, section 5, of the Hawaii Constitution and "marriage" in chapter 572, Hawaii Revised Statutes, is a policy question within the exclusive purview of legislative bodies, to wit, the legislature or the constitutional convention and not the courts;
- (2) Expressly reiterate the original intent of the legislature in enacting section 572-1, Hawaii Revised Statutes, that that section, and all of Hawaii's marriage licensing statutes, both originally and presently are intended to apply only to male-female, not same-sex couples, and that this application of the statute is consistent with Article I, section 5, of the Hawaii Constitution; and
- (3) Understanding that same-sex relationships do exist:
  - (A) Provide assurances consistent with Article I, section 4, of the Hawaii Constitution that the laws of the State do not prohibit religious organizations from solemnizing same-sex relationships; and
  - (B) Provide for the establishment of a commission on sexual orientation and the law to conduct a study and present a report of its findings to the legislature prior to the convening of the regular session of 1995.

In reviewing or interpreting section 572-1, or any of Hawaii's marriage licensing statutes, the judiciary is directed to review and interpret those statutes in light of these legislative findings.

SECTION 2. Chapter 572, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§572- **Definition of marriage.** Whenever used in the statutes or other laws of Hawaii, “marriage” means the union licensed under section 572-1.”

SECTION 3. Section 572-1, Hawaii Revised Statutes, is amended to read as follows:

“§572-1 **Requisites of valid marriage contract.** In order to make valid the marriage contract, which shall be only between a man and a woman, it shall be necessary that:

- (1) The respective parties do not stand in relation to each other of ancestor and descendant of any degree whatsoever, brother and sister of the half as well as to the whole blood, uncle and niece, aunt and nephew, whether the relationship is legitimate or illegitimate;
- (2) Each of the parties at the time of contracting the marriage is at least sixteen years of age; provided that with the written approval of the family court of the circuit within which the minor resides, it shall be lawful for a person under the age of sixteen years, but in no event under the age of fifteen years, to marry, subject to section 572-2;
- (3) The man does not at the time have any lawful wife living and that the woman does not at the time have any lawful husband living;
- (4) Consent of neither party to the marriage has been obtained by force, duress, or fraud;
- (5) Neither of the parties is a person afflicted with any loathsome disease concealed from, and unknown to, the other party;
- (6) [It shall in no case be lawful for any person to marry in the State without] The man and woman to be married in the State shall have duly obtained a license for that purpose [duly obtained] from the agent appointed to grant marriage licenses; and
- (7) The marriage ceremony be performed in the State by a person or society with a valid license to solemnize marriages and the man and the woman to be married and the person performing the marriage ceremony be all physically present at the same place and time for the marriage ceremony.”

SECTION 4. Section 572-3, Hawaii Revised Statutes, is amended to read as follows:

“§572-3 **Contracted without the State.** Marriages between a man and a woman legal in the country where contracted shall be held legal in the courts of [the] this State.”

SECTION 5. Chapter 572, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§572- **Private solemnization not unlawful.** Nothing in this chapter shall be construed to render unlawful, or otherwise affirmatively punishable at law, the solemnization of same-sex relationships by religious organizations; provided that nothing in this section shall be construed to confer any of the benefits, burdens, or obligations of marriage under the laws of Hawaii.”

SECTION 6. There is created, effective upon approval of this Act, a commission on sexual orientation and the law. The commission shall consist of



## ACT 218

eleven members, ten appointed by the governor of the State of Hawaii, of which two shall be representatives from the Hawaii Civil Rights Commission; two shall be representatives from the American Friends Service Committee; two shall be representatives from the Catholic Church diocese; two shall be representatives from the Church of Latter-Day Saints; two shall be representatives from the Hawaii Equal Rights Marriage Project; and an eleventh member, who shall be the chairperson of the family law section of the Hawaii State Bar Association as of January 1, 1994, who shall serve as chairperson of the commission. Should the chairperson of the family law section of the Hawaii State Bar Association decline to serve, the president of the senate and the speaker of the house of representatives shall choose, at their joint discretion, a person with expertise in the law of domestic relations to serve as chairperson of the commission. The members of the commission shall serve without compensation and the commission shall be attached for administrative purposes to the legislative reference bureau, which shall provide staff support to the commission. The purpose of the commission shall be to:

- (1) Examine the precise legal and economic benefits extended to opposite-sex couples, but not to same-sex couples;
- (2) Examine whether substantial public policy reasons exist to extend such benefits to same-sex couples and the reasons therefor; and
- (3) Recommend appropriate action which may be taken by the legislature to extend such benefits to same-sex couples.

The commission shall submit a report on its findings to the legislature no later than twenty days prior to the convening of the 1995 regular session.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall apply retroactively to any marriage license application pending on the effective date of this Act, or which has been rejected by the department of health before the effective date of this Act.

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

(Approved June 22, 1994.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 218

H.B. NO. 2690

A Bill for an Act Relating to Agricultural Leases.

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

SECTION 1. Section 166-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any provision of this chapter to the contrary notwithstanding, the board may by negotiation, drawing of lot, or public auction, directly dispose of

public lands and related facilities set aside and designated for use as agricultural parks, and any other lands and facilities under the jurisdiction of the department pursuant to section 166-3 and notwithstanding chapter 171. Except as provided by subsection (c), dispositions may be by lease and shall be subject to the requirements set forth in rules adopted by the board in conformity with section 166-9, and subject also to the following limitations:

- (1) The property shall be disposed of for agricultural or aquacultural purposes only;
- (2) The lessee shall derive the major portion of the lessee's total annual income from the lessee's activities on the premises; provided that this restriction shall not apply if failure to meet the restriction results from mental or physical disability or the loss of a spouse, or if the premises are fully utilized in the production of crops or products for which the disposition was granted;
- (3) The lessee shall comply with all federal and state laws regarding environmental quality control;
- (4) The board shall determine the specific uses for which the disposition is intended; parcel the land into minimum size economic units sufficient for the intended uses; make or require the lessee to make improvements as are required to achieve the intended uses; set the upset price or lease rent based upon [fair market] an appraised evaluation of the property value [for the intended] adjustable as provided in rules adopted in accordance with chapter 91 to the specified use of [a] the lot; set the term of the lease, which shall be not less than fifteen years nor more than fifty-five years, including any extension granted for mortgage lending or guarantee purposes; and establish other terms and conditions as it may deem necessary, including but not limited to restrictions against alienation and provisions for withdrawal by the board;
- (5) No lease shall be made to any person who is in arrears in the payment of taxes, rents, or other obligations owing the State or any [of its political subdivisions;] county; and
- (6) Any transferee, assignee, or sublessee of an agricultural park lease shall first qualify as an applicant under this chapter. For the purpose of this paragraph, any transfer, assignment, sale, or other disposition of any interest, excluding a security interest, of any legal entity which holds an agricultural park lease shall be treated as a transfer of the agricultural park lease and shall be subject to the approval of the board of agriculture upon reasonable terms and conditions, not inconsistent with this chapter or rules of the board, which the board may deem necessary. No transfer shall be approved by the board if the disposition of the stock, or assets or other interest of the legal entity would result in the failure of the entity to qualify for an agricultural park lease."

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

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

(Approved June 22, 1994.)

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist an Industrial Enterprise.

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

SECTION 1. The legislature finds that although fuel-grade ethanol, produced from the fermentation of agricultural or municipal solid waste by-products, has demonstrated its value as a clean, safe, and economical alternative to petroleum, Hawaii continues to depend almost entirely upon imported petroleum-based fuels to fulfill its transportation and electrical energy needs. The legislature further finds that with the decline of the sugar industry in the State, vast areas of agricultural land along with an experienced agricultural work force will, in all likelihood, become severely underutilized in the near future. Provided with the necessary financial assistance to establish a facility to demonstrate the viability of the technology, the ethanol production industry will provide the State with an alternative energy product which would reduce Hawaii's dependence upon imported petroleum, as well as assist in the revival of the State's agricultural economy. For the foregoing reasons, the legislature finds and declares that the issuance of special purpose revenue bonds and refunding special purpose revenue bonds under this Act is in the public interest and is beneficial to the public's health, safety, and general welfare.

Energy Associates of Hawaii, Inc., proposes that all public and private parties and organizations involved cooperate in expediting the building of a demonstration plant for the production of fuel-grade ethanol using the hemicellulose portion of bagasse as feedstock. Energy Associates of Hawaii, Inc., through its association with BioEnergy International, L.C. (a Quadrex Company) of Florida, will manage the ethanol facilities and provide the technology required. The legislature finds that Energy Associates of Hawaii, Inc., is an industrial enterprise meeting the qualifications for special purpose revenue bond assistance under chapter 39A, part V, Hawaii Revised Statutes. The special purpose revenue bonds authorized under this Act will provide low interest-rate bond financing for the construction of a demonstration fuel-grade ethanol production plant in Hamakua, Hawaii, or in Kau, Hawaii, or in Waialua, Oahu, or in any other appropriate location in the State.

SECTION 2. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in one or more series in a total amount not to exceed \$25,000,000, for the construction of a demonstration fuel-grade ethanol production plant in Hamakua, Hawaii, or in Kau, Hawaii, or in Waialua, Oahu, or in any other appropriate location in the State.

SECTION 3. The department of budget and finance shall submit an annual report to the legislature of the progress made under this Act in reducing the financial costs of the construction of a demonstration fuel-grade ethanol production plant in Hamakua, Hawaii, or in Kau, Hawaii, or in Waialua, Oahu, or in any other appropriate location in the State. The report shall include:

- (1) The cost of the bonds at the time of issuance as compared to the cost of the undertaking if the undertaking was financed through other means;

- (2) The estimated benefits derived from the use of the special purpose revenue bonds; and
- (3) A description of the undertaking to be funded by the special purpose revenue bonds.

SECTION 4. The department of budget and finance is authorized to issue from time to time, refunding special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2, and any refunding special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption, and the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized under this Act.

SECTION 5. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part V, Hawaii Revised Statutes, pertaining to the power to issue special purpose revenue bonds and refunding special purpose revenue bonds to assist industrial enterprises serving the general public.

SECTION 6. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 1997.

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

(Approved June 22, 1994.)

## ACT 220

H.B. NO. 3017

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

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

SECTION 1. Section 431:10C-308.6, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) A provider may request prior approval from the insurer for treatment exceeding the workers’ compensation schedules or treatment guidelines. The request shall include a treatment plan with a time schedule of measurable objectives and an estimate of the total cost of services. The insurer shall respond to such a request within five working days of mailing of the request, giving authorization or stating in writing the reasons for refusal to the provider and the insured. Any such refusal shall be filed concurrently for submission to the peer review organization. Failure by the insurer to respond within five working days shall constitute approval of the treatment. If the request for submission to the peer review organization is timely received, the injured claimant shall be entitled to continued health care services requested up to the date of the peer review organization decision.”

## ACT 221

SECTION 2. Section 431:10C-308.6, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

“(j) If a peer review organization determines that a provider has provided treatment or rehabilitative services that are not appropriate or reasonable or that future provision of such treatment or rehabilitative services will not be appropriate or reasonable, or both, the provider shall not collect payment for the inappropriate or unreasonable treatment or rehabilitative services from either the insurer or the insured[.], and if the provider has collected payment for the inappropriate or unreasonable treatment or rehabilitative services, the provider shall refund to the insurer or insured all amounts paid for the inappropriate or unreasonable treatment or rehabilitative services; provided that such repayment shall be enforced by a mechanics lien. The peer review organization shall report all such decisions to the regulated industries complaints office of the department of commerce and consumer affairs. In no case shall the failure of a provider to return any payment made by the insurer for treatment or services determined to be inappropriate or unreasonable obligate the insured to reimburse the insurer for the payment.”

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

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

(Approved June 22, 1994.)

## ACT 221

H.B. NO. 3132

A Bill for an Act Relating to the Nonpresentment of Warrants.

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

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

“**§40-68 Nonpresentment of warrants[.] and checks.** Any warrant or check drawn upon the state treasury shall be presented at the treasury for payment before the close of the fiscal year next after the fiscal period in which it has been issued. All warrants or checks not so presented within [such] that time shall be deemed to have been paid, and any money held at the expiration of [such] that time in a special fund or account for the payment of [such] the warrants or checks shall thereupon be transferred to [the general fund;] a trust fund established and known as the nonpresentment of warrants and checks trust fund; provided that the fund balance in the trust fund shall not exceed \$500,000 and any excess of that amount shall be transferred to the general fund; provided further that within the period of ten fiscal years immediately following the year in which an amount of money was so transferred to the [general] trust fund, the payee or assignee of [such] the warrant[.] or check, or, if the payee is deceased, the personal representative of the estate of the payee, or if the estate of the payee is closed, to any person lawfully entitled to the undisposed property of the deceased payee, upon filing with the comptroller a claim for recovery and any supportive evidence

required by the comptroller, shall be paid the amount of [such] the warrant or check out of [any available moneys in the general fund not otherwise appropriated] the trust fund upon a warrant or check newly drawn by the comptroller[; provided further that such amount shall first be appropriated by the legislature pursuant to a request which shall be made by the comptroller].”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$360,000, or so much thereof as may be necessary for fiscal year 1994-1995, for the purpose of satisfying claims for recovery that are filed with the comptroller pursuant to section 40-68, Hawaii Revised Statutes. The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act. All unexpended and unencumbered balances of the appropriation as of the close of business on June 30, 1995, shall lapse into the general fund.

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

SECTION 4. This Act shall take effect on July 1, 1994; provided that section 1 shall take effect on June 30, 1994; and provided further that on July 1, 1996, section 1 of this Act shall be repealed and section 40-68, Hawaii Revised Statutes, shall be reenacted in the form in which it read prior to this Act.

(Approved June 22, 1994.)

## ACT 222

H.B. NO. 3135

A Bill for an Act Making an Appropriation for the Juvenile Justice Information System.

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

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$600,000, or so much thereof as may be necessary for fiscal year 1994-1995, for the development and implementation of a juvenile justice information system, including the establishment of permanent positions in the department of the attorney general. The positions shall be exempt from chapters 76 and 77, Hawaii Revised Statutes.

SECTION 2. The department of the attorney general may establish six permanent data processing positions and one permanent clerical position to enable the department to carry out its mission of collecting, storing, disseminating, and analyzing juvenile justice data.

SECTION 3. The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1994.

(Approved June 22, 1994.)

A Bill for an Act Relating to Public Employment.

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

PART I

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

**“§76-16 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the State now existing or hereafter established and embraces all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard that are required by state or federal laws or regulations or orders of the national guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the position does not exceed one year, but before any person may be employed to render the temporary service, the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court, who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, and one law clerk for each judge of the circuit court, one additional law clerk for the civil administrative judge of the circuit court of the first circuit, one additional law clerk

- for the civil motions judge of the circuit court of the first circuit, one additional law clerk for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
  - (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, the special assistant to the state librarian, one secretary for the special assistant to the state librarian, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
  - (12) Employees engaged in special, research, or demonstration projects approved by the governor;
  - (13) Positions filled by inmates, kokuas, patients of state institutions, persons with severe physical or mental handicaps participating in the work experience training programs, and students and positions filled through federally funded programs [which] that provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
  - (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
  - (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
  - (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution; [four] three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; [one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of human services either in charge of welfare or other functions within the department as may be assigned by the director of human services; four] three additional deputies in the department of health, each in charge of one of the following: administration [or], hospitals, and health resources



administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; [one additional deputy in the department of business, economic development, and tourism to perform the duties assigned by the director of business, economic development, and tourism and approved by the governor; one additional deputy in the department of business, economic development, and tourism in charge of the office of tourism and other tourism-related activities as may be assigned by the director of business, economic development, and tourism, with the approval of the governor; one additional deputy in the department of budget and finance to perform the duties assigned by the director of finance and approved by the governor; one additional deputy within the department of land and natural resources to perform the duties to be assigned by the chairperson of the board of land and natural resources; one additional deputy in the department of taxation to perform the duties assigned by the director of taxation and approved by the governor;] an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;

- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that not more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii [which] that require the hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) One public high school student to be selected by the Hawaii state student council as a nonvoting member on the board of education as authorized by the State Constitution;
- (25) Sheriff, first deputy sheriff, and second deputy sheriff; and
- (26) A gender and other fairness coordinator hired by the judiciary.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 2. Section 201-91, Hawaii Revised Statutes, is amended by deleting the definition of "deputy director of tourism".

[“Deputy director of tourism” means the deputy director of business, economic development, and tourism in charge of the office of tourism.”]

SECTION 3. Section 201-92, Hawaii Revised Statutes, is amended to read as follows:

“**[§201-92] Office of tourism; deputy director of tourism; staff.** (a). There is established an office of tourism within the department of business, economic development, and tourism.

(b) This office shall be headed by a deputy director.”]

SECTION 4. Section 201-94, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the department, for administrative purposes, an advisory council to be known as the Hawaii tourism marketing council, which shall review and make recommendations on matters relating to [the] state tourism marketing and promotion programs and activities. The council shall be composed of nine voting members and four ex officio nonvoting members. The voting members shall be appointed in [the manner provided in] accordance with section 26-34, except as otherwise provided [otherwise in this section.] by law. The president of the Hawaii Visitors Bureau, the president of the Hawaii hotel association, the president of the Hawaii resort developers’ conference, and the [deputy] director [of tourism], or their respective designated representatives, shall serve as ex officio, nonvoting members.”

## PART II

SECTION 5. Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§76- Recruitment flexibility for the counties.** Notwithstanding section 76-23, Hawaii Revised Statutes, or any other provision to the contrary, the directors of the county departments of civil service and the administrative director of the courts may determine, establish, and maintain the manner in which positions shall be filled in accordance with section 78-1 and the following standards:

- (1) Equal opportunity for all regardless of race, sex, age, religion, color, ancestry, physical handicap, or politics;
- (2) First consideration for competent employees already within public service; and
- (3) Impartial selection of the ablest person through competitive means which are fair, objective, and practical.”

SECTION 6. Section 76-78, Hawaii Revised Statutes, is amended to read as follows:

“**§76-78 Provisions of part II applicable.** Except as otherwise specifically provided in this part, all of the provisions of part II shall apply to each of the counties of Hawaii, Maui, and Kauai and shall be deemed a part of this part, for which purpose wherever reference is made in part II to the State or governor or the legislature, it means each of the counties, the mayor of each county, and the council of each county, respectively, and references therein to the state director of personnel services and the civil service commission mean the director and the

**ACT 224**

commission provided for in section 76-71; provided that the reference to the director in sections 76-12, 76-17, 76-42, and 76-43 means the commission provided for in section 76-71; and provided further that [sections] section 76-16 [and 76-22.5] shall not be deemed a part of this part.”

SECTION 7. Act 32, Session Laws of Hawaii 1992, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval [and shall be repealed on June 30, 1994; provided that section 76-78 is reenacted in the form in which it read on the day before the approval of this Act].”

SECTION 8. The director of state personnel services, after consulting with the directors of the county departments of civil service and the Administrative Director of the Courts, shall report to the legislature on the actions taken and the progress made by the counties, in applying the recruitment flexibility provisions of section 1, at least twenty days before the convening of the regular session of 1996.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect on June 29, 1994; provided that sections 1, 2, 3, and 4 shall take effect on January 1, 1995.

(Approved June 22, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 224**

H.B. NO. 3303

A Bill for an Act Relating to Used Motor Vehicles.

*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  
USED MOTOR VEHICLE SALES AND WARRANTIES**

§ **-1 Definitions.** When used in this chapter unless the context otherwise requires:

“Consumer” means the purchaser, other than for purposes of resale, of a used motor vehicle primarily used for personal, family, or household purposes and subject to a warranty, and the spouse or child of the purchaser if the motor vehicle is transferred to the spouse or child during the duration of any warranty applicable to such motor vehicle, and any other person entitled by the terms of such warranty to enforce the obligations of the warranty.

“Dealer” is defined in section 437-1.1.

“Used motor vehicle” means a “motor vehicle” as that term is defined in section 4811-2, which has been purchased or transferred either after one year from the date of original delivery, or after twelve thousand miles of operation, whichever occurs first.

“Warranty” means any undertaking in connection with the sale by a dealer of a used motor vehicle to refund, repair, replace, maintain, or take other action with respect to that used motor vehicle and provided at no extra charge beyond the price of the used motor vehicle.

**§ -2 Used motor vehicles: written warranty required, terms. (a)**

No used motor vehicle shall be sold in this State by a dealer to a consumer unless accompanied by a written warranty covering the full cost of both parts and labor necessary to repair any defect or malfunction in a part covered under subsection (c) that impairs the used motor vehicle’s safety or use. Defects and malfunctions that affect only appearance shall not be deemed to impair safety or use for the purposes of this chapter.

(b) The written warranty shall apply for the following durations:

- (1) For a used motor vehicle which, at the time of sale, has been operated less than twenty-five thousand miles, the warranty shall be a minimum of ninety days or five thousand miles, whichever occurs first. This ninety days or five thousand mile warranty is in addition to any rights the consumer may have under chapter 4811;
- (2) For a used motor vehicle which, at the time of sale, has been operated twenty-five thousand miles or more, but less than fifty thousand miles, the warranty shall be a minimum of sixty days or three thousand miles, whichever occurs first; and
- (3) For a used motor vehicle which, at the time of sale, has fifty thousand miles or more but no more than seventy-five thousand miles, the warranty shall be a minimum of thirty days or one thousand miles, whichever occurs first.

(c) The written warranty shall require the dealer or its agent to repair or, at the election of the dealer, reimburse the consumer for the reasonable costs of repairing the failure of a covered part. Covered parts shall at least include the following items:

- (1) Engine, including all lubricated parts, water pump, fuel pump, manifolds, engine block, cylinder head, rotary engine housings, flywheel, gaskets, and seals;
- (2) Transmission, including the transmission case, internal parts, torque converter, gaskets, and seals, except four-wheel drive vehicles shall be excluded from coverage as provided for in this paragraph;
- (3) Drive axle, including front and rear drive axle housings and internal parts, axle shafts, propeller shafts, and universal joints, except four-wheel drive vehicles shall be excluded from coverage as provided in this paragraph;
- (4) Brakes, including master cylinder, vacuum assist booster, wheel cylinders, hydraulic lines and fittings, and disc brake calipers;
- (5) Radiator;
- (6) Steering, including the steering gear housing and all internal parts, power steering pump, valve body, piston, and rack; and
- (7) Alternator, generator, starter, and ignition system, excluding the battery.

(d) The written warranty may contain additional language excluding coverage:

- (1) For a defect or malfunction in a part caused by a lack of customary maintenance after the vehicle is sold;
- (2) For a defect or malfunction in a part caused by collision, abuse, negligence, theft, vandalism, fire, or other casualty, and for damage from the environment, including but not limited to windstorms, hurricanes, and lightning;
- (3) If the odometer has been stopped or altered such that the vehicle's actual mileage cannot be readily determined or a part has been altered in a manner which caused it to fail;
- (4) For a motor tuneup;
- (5) For maintenance services and the parts used in connection with such services such as seals, gaskets, oil, or grease unless required in connection with the repair of a covered part;
- (6) For a defect or malfunction in a part resulting from racing or other competition;
- (7) For a defect or malfunction in a part caused by towing a trailer or another vehicle unless the used motor vehicle is equipped for this as recommended by the manufacturer;
- (8) If the used motor vehicle is used to carry passengers for hire;
- (9) If the used motor vehicle is rented to someone other than the consumer;
- (10) For repair of valves and rings to correct low compression and oil consumption which are considered normal wear;
- (11) To the extent otherwise permitted by law, for property damage arising or allegedly arising out of the defect or malfunction in a part; and
- (12) To the extent otherwise permitted by law, for loss of the use of the used motor vehicle, loss of time, inconvenience, commercial loss, or consequential damages.

(e) Nothing in this chapter diminishes the obligations of a manufacturer under a warranty issued by the manufacturer. The express warranties created by this section do not require a dealer to repair or replace a covered part if the repair or replacement is covered by a manufacturer's warranty, or the manufacturer otherwise agrees to repair or replace the part.

The terms of the dealer's warranty shall be tolled for any period of time the used motor vehicle is out of service by reason of repair under the manufacturer's warranty.

(f) A consumer shall return a vehicle for repair under this section by presenting it to the dealer prior to the expiration of the applicable warranty period and providing written notice to the dealer of the defect. The dealer shall immediately accept return of a vehicle when it is so presented. The used motor vehicle shall be deemed out of service commencing the day it is presented, notwithstanding any dealer's failure to accept its return on that day.

During the applicable warranty period and the return period, the dealer shall pay the reasonable costs of towing from the point of breakdown up to fifteen miles to obtain the required repairs or to return the vehicle to the dealer.

(g) The term of any warranty established by this section shall be extended by any time period during which:

- (1) The used motor vehicle is in the possession of the dealer or its duly authorized agent for the purpose of repairing the used motor vehicle under the terms and obligations of the warranty;
- (2) Repair services are not available to the consumer because of war, invasion or strike, fire, flood or other natural disaster; or

(3) The consumer has notified the dealer that a used motor vehicle is inoperable, but cannot reasonably present the vehicle to the dealer and the dealer refuses to pay the charge to tow the vehicle.

(h) The applicable warranty period shall end thirty days from the date of completion of any repair required by this section as to the defect repaired if the warranty would otherwise have expired during this period.

(i) The dealer shall provide to the consumer, each time the consumer's vehicle is returned from being diagnosed or repaired under the warranty, a fully itemized, legible warranty repair receipt indicating any diagnosis made and all work performed on the vehicle, including, but not limited to:

- (1) The defect or malfunction complained of;
- (2) The work performed in an attempt to correct the defect or malfunction and the identity of the repairer if it is not the dealer;
- (3) The parts replaced in performing such work;
- (4) The date and odometer reading when the vehicle was submitted for repair; and
- (5) The date when the vehicle was made available to the consumer. The consumer shall sign a copy of the warranty repair receipt.

(j) A dealer may repair, within the meaning of this section, either by performing the repair itself or, if the dealer does not have a repair facility, by arranging and making payment for prompt repair by a motor vehicle repair dealer registered under chapter 437B.

(k) The dealer shall provide repair or reimbursement notwithstanding the fact that the warranty period has expired, provided that the consumer provides notification to the dealer of the failure of a covered part within the specified warranty period.

**§ -3 Disclaimers void; authorized waivers; exemptions; "as is" sales.** (a) Any agreement entered into by a consumer for the purchase of a used motor vehicle that waives, limits, or disclaims any of the rights set forth in section -2 shall be void as contrary to public policy. If a dealer fails to give the written warranty required by this chapter, the dealer nevertheless shall be deemed to have given the warranty as a matter of law.

(b) Notwithstanding subsection (a), the consumer may waive a warranty required pursuant to this chapter only as to a particular defect or malfunction which the dealer has disclosed to the consumer. No such waiver shall be effective unless such waiver:

- (1) Is in writing;
- (2) Is conspicuous and is in plain language;
- (3) Identifies the particular disclosed defect or malfunction in the used motor vehicle for which the warranty is to be waived;
- (4) States what warranty, if any, shall apply to the disclosed defect or malfunction; and
- (5) Is signed by both the consumer and the dealer prior to sale.

(c) This chapter shall not apply to:

- (1) Used motor vehicles sold for less than \$1,500;
- (2) Used motor vehicles with over seventy-five thousand miles at the time of sale if the mileage is indicated in writing at the time of sale;
- (3) Used motor vehicles that are five years of age or older, calculated from the first day in January of the designated model year of the vehicle;
- (4) Vehicles that have been custom-built or modified for show purposes or racing; or

- (5) Vehicles which are inoperable and a total loss. For the purpose of this paragraph, a vehicle is a "total loss" only if there is material damage to the vehicle's frame, unitized structure, or suspension system, and the projected cost of repairing the damage exceeds the market value of the vehicle at the time of the incident causing it to be declared a total loss.

(d) A used motor vehicle may be sold "as is" by a dealer only if it falls within the exemptions set out in this section. No "as is" disclaimer by a dealer shall be enforceable unless all of the following conditions are met:

- (1) A disclaimer shall appear on the front page of the contract of sale, which shall read as follows:

**"AS IS"**

**THIS VEHICLE IS SOLD "AS IS".**

**YOU WILL HAVE TO PAY FOR ANY REPAIRS NEEDED  
AFTER SALE.**

**IF WE HAVE MADE ANY PROMISES TO YOU, THE LAW**

**SAYS WE MUST KEEP OUR PROMISES, EVEN IF WE SELL "AS IS".**

**TO PROTECT YOURSELF, ASK US TO PUT ALL PROMISES IN WRITING.**

- (2) The text of the disclaimer shall be printed in twelve-point boldface type, except the heading, which shall be in sixteen-point extra boldface type. The entire notice shall be boxed.
- (3) The consumer shall sign the consumer's name and the date within the box containing the disclaimer prior to sale. A copy of the signed disclaimer shall be kept by the dealer for a two-year period from the date of the consumer's signature.

(e) An "as is" sale of a used motor vehicle waives implied warranties but shall not waive any express warranties, either oral or written, upon which the consumer relied in entering into the transaction.

(f) In selling or offering to sell any used motor vehicle, and in providing the express warranty required by this chapter, a dealer shall comply in all respects with the Federal Trade Commission's "Used Motor Vehicle Trade Regulation Rule," 16 Code of Federal Regulations, part 455.

**§ -4 Disclosure of damages or defects in used motor vehicles. (a)**

No dealer may offer for sale any used motor vehicle without first providing:

- (1) Written notice to the prospective consumer of any material mechanical defect in the motor vehicle and any damage sustained by the motor vehicle due to fire, water, collision, or other causes for which the cost of repairs exceeds \$1,000 for parts and labor, when the defect or damage is known to the dealer; and
- (2) Written notice to the prospective consumer whether the dealer has conducted any inspection of the motor vehicle to determine known defects or damage.

(b) If a dealer promises that any repairs will be made or any conditions corrected in connection with the purchase of a used motor vehicle, such promises shall be provided in writing and either attached or incorporated into the sales contract.

(c) For purposes of this section:

"Known" means that a dealer or the dealer's agent or employee has obtained facts or information about the condition of a motor vehicle which would

lead a reasonable person in similar circumstances to believe that the motor vehicle contained one or more material mechanical defects. The term "known" encompasses knowledge obtained through an inspection, from a previous owner, from the salesperson at an auction or another dealer, or through other means.

"Material mechanical defect" means any defect or malfunction which renders the motor vehicle mechanically unsound or inoperable.

§ -5 Notices. (a) The written warranty provided for in section -2 and the written notices provided for in sections -3 and -4 shall be delivered to the consumer at or before the time the consumer signs the sales contract for the used motor vehicle. The warranty and the notice may be set forth on one sheet or on separate sheets. They may be separate from, attached to, or a part of the sales contract. If they are part of the sales contract, they shall be separated from the other contract provisions and each headed by a conspicuous title.

(b) The director of commerce and consumer affairs may adopt rules pursuant to chapter 91 necessary to implement the notice provisions of this chapter. The rules may include the establishment of wording, format, placement, and distribution requirement for all notices specified in this chapter.

(c) The failure of a dealer to provide the warranty or notices required by this chapter or the provision of false or misleading notices or warranties shall constitute prima facie evidence of an unfair or deceptive act under chapter 480.

§ -6 Failure to honor warranty. (a) If the dealer or its agent fails to correct a defect or malfunction as required by the warranty specified in section -2 after a reasonable period of time, the dealer shall accept return of the used motor vehicle from the consumer and refund the full purchase price, including sales tax, less a reasonable allowance for any damage not attributable to normal wear or usage, and with an adjustment for any modifications which either increase or decrease the market value of the vehicle. A reasonable allowance for use shall be fifteen cents for each mile the used motor vehicle has been operated between its sale and its return.

(b) It shall be presumed that a dealer has had a reasonable opportunity to correct a defect or malfunction in a used motor vehicle if the dealer fails to repair the same defect or malfunction within three attempts, or if the used motor vehicle is out of service for more than a cumulative total of ten business days after the consumer has returned it to the dealer for repair.

(c) A used motor vehicle shall not be considered out of service for purposes of the ten-business-day period described in subsection (b) for any day in which a part necessary to repair a defect or malfunction complained of is not in the dealer's possession; provided that the dealer has ordered the part by reasonable means on the same day on which the dealer knew or should have known that the part was necessary, except that in no event shall a part's unavailability operate to toll the ten-business-day period for more than twenty-one days. The applicable warranty period shall be extended by the number of days a part is unavailable.

(d) In determining the purchase price to be refunded, the purchase price shall be deemed equal to the sum of the actual cash difference paid for the used motor vehicle, plus return of any vehicles traded in at the time of purchase. If the dealer elects to not return any vehicles traded in by the consumer, or is unable to return such vehicles in substantially the same condition as received from the consumer, the dealer shall pay the consumer the wholesale value of any such traded-in vehicles as listed in the National Automobile Dealers' Association Used Car Guide, or such other guide as may be specified in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, as adjusted for mileage,



improvements, and any major physical or mechanical defects in the vehicle at the time of trade-in.

(e) The dealer selling the used motor vehicle shall deliver to the consumer a written notice either attached to or within the contract of sale containing conspicuous language indicating that if the consumer should be entitled to a refund pursuant to this section, the value of any vehicle traded in by the consumer will be determined by the method described in subsection (d), rather than the value listed in the sales contract.

(f) Refunds shall be made to the consumer and lienholder, if any, as their interests may appear on the records of ownership kept by the county director of finance.

(g) Alternatively, the dealer may elect to offer to replace the used motor vehicle with a comparably priced vehicle, with such adjustment in price as the parties may agree to. The consumer shall not be obligated to accept a replacement vehicle, but may instead elect to receive the refund provided under this section.

§ -7 **Civil and administrative actions for violations.** (a) A consumer of a used motor vehicle shall have a private right of action against a dealer to enforce this section and recover costs, including reasonable attorney's fees, incurred in the civil action.

(b) It shall be an affirmative defense to any claim under this section that:

- (1) The alleged malfunction or defect does not substantially impair the use or safety of the used motor vehicle;
- (2) The alleged malfunction or defect is the result of abuse, neglect, or unreasonable modifications or alterations of the used motor vehicle;
- or
- (3) The alleged malfunction or defect was covered or warranted under an express warranty issued by the manufacturer of the used motor vehicle, and that such warranty issued by the manufacturer of the used motor vehicle was in effect during the warranty period established by this section.

(c) Any private civil action brought pursuant to this section shall be commenced within one year of the date of original delivery of the used motor vehicle to the consumer.

(d) Nothing in this chapter shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

(e) A motor vehicle dealer's failure to comply with any of the provisions of this chapter may result in disciplinary action pursuant to chapter 437, which may result in sanctions, including, but not limited to, suspension or revocation of license, and the imposition of fines or restitution."

SECTION 2. This Act shall take effect on January 1, 1995.

(Approved June 22, 1994.)

**ACT 225**

H.B. NO. 3427

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

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

SECTION 1. Section 431:10C-407, Hawaii Revised Statutes, is amended

by amending subsection (b) to read as follows:

“(b) The plan shall provide all no-fault benefits and services and bodily injury and property damage liability coverages to the limits and coverages specified in this article for all classes of persons, motor vehicles, and motor vehicle uses specified in this article upon the payment of premiums as provided in subpart C, as follows:

- (1) The plan shall provide no-fault benefits and policies for each of the following classes, and each class shall be able to secure a no-fault and bodily injury and property damage liability policy through the plan:
  - (A) All motor vehicles owned by licensed assigned risk drivers as the commissioner, by rules, shall define. The commissioner shall regulate the class in accordance with the general practice of the industry, the applicable results, if any, of the commissioner’s examination of the motor vehicle insurers’ business records and experience, and any applicable and scientifically credible governmental or academic studies of the multi-accident or high-risk automobile driver.
  - (B) All motor vehicles owned by licensed drivers convicted within the thirty-six months immediately preceding the date of application, in any jurisdiction of any one or more of the offenses of, or of the offenses cognate to:
    - (i) Heedless and careless driving;
    - (ii) Driving while license suspended or revoked;
    - (iii) Leaving the scene of an accident;
    - (iv) Manslaughter, if resulting from the operation of a motor vehicle; or
    - (v) Driving under the influence of an intoxicating liquor as provided in section 291-4 or any drug, except marijuana, as provided in section 291-7.
  - (C) All commercial uses, first class, defined as any commercial use engaged in the transport of passengers for hire or gratuity.
  - (D) All commercial uses, second class, defined as any commercial, business, or institutional use other than the transport of passengers as described in subparagraph (C) or the exclusive use of a vehicle for domestic-household-familial purposes.
  - (E) All other motor vehicles, not classified under [subparagraphs] subparagraph (A), (B), (C), or (D), owned by licensed drivers who are unable to obtain no-fault policies and optional additional insurance through ordinary methods.
- (2) The plan shall provide no-fault benefits and bodily injury and property damage policies for all classes of persons, motor vehicles, and motor vehicle uses, at the premiums specified under subpart C, at the option of the owners, for the following classes, which the commissioner, by rules, shall further define and regulate:
  - (A) All licensed drivers, or unlicensed permanently disabled individuals unable to operate their motor vehicles, who are receiving public assistance benefits consisting of [medical services or] direct cash payments through the department of human services, or benefits from the supplemental security income

program under the Social Security Administration; provided that the licensed drivers, or unlicensed permanently disabled individuals unable to operate their motor vehicles, are the sole registered owners of the motor vehicles to be insured; provided further that not more than one vehicle per public assistance unit shall be insured under this part, unless extra vehicles are approved by the department of human services as being necessary for medical or employment purposes; provided further that the motor vehicle to be insured shall be used strictly for personal purposes, and not for commercial purposes.

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

Each category of driver/owner under subparagraphs (A) and (B) may secure no-fault coverage through the plan at the individual's option, provided any previous no-fault policy has expired or has been canceled. Any person becoming eligible for plan coverage under subparagraph (A) shall first exhaust all paid coverage under any no-fault policy then in force before becoming eligible for plan coverage.

Any person eligible or becoming eligible under rules adopted by the commissioner under subparagraph (B), may at any time elect coverage under the plan and terminate any prior private insurer's coverage.

A certificate shall be issued by the department of human services indicating that the person is a bona fide public assistance recipient as defined in subparagraph (A). The certificate shall be deemed a policy for the purposes of chapter 431 upon the issuance of a valid no-fault insurance identification card pursuant to section 431:10C-107.

- (3) Under the joint underwriting plan, the required motor vehicle policy coverages as provided in section 431:10C-301 shall be offered by every insurer to each eligible applicant assigned by the bureau. In addition, uninsured motorist and underinsured motorist coverages shall be offered<sup>1</sup> in conformance with section 431:10C-301, and optional additional coverages shall be offered<sup>1</sup> in conformance with section 431:10C-302, for each class except that defined in paragraph (2)(A), as the commissioner, by rules, shall provide."

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

SECTION 3. This Act shall take effect on July 1, 1994, provided that S.B. No. 2382<sup>2</sup> or a Hawaii Health QUEST Program in any form is passed by the Legislature, Regular Session of 1994, and becomes an Act.

(Approved June 22, 1994.)

**Notes**

- 1. Prior to amendment "by every insurer" appeared here.
- 2. Did not pass 1994 legislature.

## ACT 226

H.B. NO. 3451

A Bill for an Act Relating to Funding for Public Utilities Regulation.

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

SECTION 1. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§269- Public utilities commission special fund.** (a) There is established in the state treasury a public utilities commission special fund to be administered by the public utilities commission. The proceeds of the fund shall be used by the public utilities commission and the division of consumer advocacy of the department of commerce and consumer affairs for all expenses incurred in the administration of chapters 269, 271, 271G, and 486I; provided that the expenditures of the public utilities commission shall be in accordance with legislative appropriations. On a quarterly basis, an amount not exceeding thirty per cent of the proceeds remaining in the fund after the deduction for central service expenses, pursuant to section 36-27, shall be allocated by the public utilities commission to the division of consumer advocacy; provided that all moneys allocated by the public utilities commission from the fund to the division of consumer advocacy shall be in accordance with legislative appropriations.

(b) All moneys appropriated to, received, and collected by the public utilities commission that are not otherwise pledged, obligated, or required by law to be placed in any other special fund or expended for any other purpose shall be deposited into the public utilities commission special fund including, but not limited to, all moneys received and collected by the public utilities commission pursuant to sections 92-21, 269-28, 269-30, 271-27, 271-36, 271G-19, and 607-5.

(c) The public utilities commission shall submit a report to the legislature detailing all funds received and all moneys disbursed out of the fund prior to the convening of each regular session.

(d) All moneys in excess of \$1,000,000 remaining on balance in the public utilities commission special fund on June 30 of each year shall lapse to the credit of the state general fund.”

SECTION 2. Section 92-21, Hawaii Revised Statutes, is amended to read as follows:

**“§92-21 Copies of records; other costs and fees.** Except as otherwise provided by law, a copy of any government record, including any map, plan, diagram, photograph, photostat, or geographic information system digital data file, which is open to the inspection of the public shall be furnished to any person applying for the same by the public officer having charge or control thereof upon the payment of the reasonable cost of reproducing such copy. The cost of reproducing any government record, except geographic information system digital data, shall not be less than 25 cents per page, sheet, or fraction thereof. The cost of reproducing geographic information system digital data shall be in accordance with rules adopted by the agency having charge or control of that data. Such reproduction cost shall include, but shall not be limited to, labor cost for search and actual time for reproducing, material cost, including electricity cost, equipment cost, including rental cost, cost for certification, and other related costs. All fees shall be paid in by the public officer receiving or collecting the same to the state director of finance, the county director of finance, or to the agency or

department by which the officer is employed, as government realizations[.]; provided that fees collected by the public utilities commission pursuant to this section shall be deposited in the public utilities commission special fund established under section 269-”<sup>1</sup>

SECTION 3. Section 269-30, Hawaii Revised Statutes, is amended to read as follows:

“**§269-30 Finances; public utility fee.** [Section] (a) Sections 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] pursuant to this section shall be deposited with the director of finance [of the State] to the credit of the [general fund.] public utilities commission special fund established under section 269-

(b) There also shall [also] be paid to the commission in each of the months of July and December [in] of each year, by each public utility [which is] subject to investigation by the commission, a fee [which shall be] equal to [one-eighth] one-fourth of one per cent of the gross income from the public [utility] utility’s business [carried on by the public utility] during the preceding year, or the sum of [\$15,] \$30, whichever is greater. This fee shall [likewise] be deposited with the director of finance [of the State] to the credit of the [general fund.] public utilities commission special fund.

(c) Each public utility paying a fee under subsection (b) may impose a surcharge to recover the amount paid above one-eighth of one per cent of gross income. The surcharge imposed shall not be subject to the notice, hearing, and approval requirements of this chapter; provided that the surcharge may be imposed by the utility only after thirty days’ notice to the public utilities commission. Unless ordered by the public utilities commission, the surcharge shall be imposed only until the conclusion of the public utility’s next rate case; provided that the surcharge shall be subject to refund with interest at the public utility’s authorized rate of return on rate base if the utility collects more money from the surcharge than actually paid due to the increase in the fee to one-fourth of one per cent.”

SECTION 4. Section 271-36, Hawaii Revised Statutes, is amended to read as follows:

“**§271-36 Fees and charges.** (a) Every common carrier by motor vehicle and every contract carrier by motor vehicle[,] shall pay to the commission, in April [in] of each year, a fee [which shall be] equal to [one-eighth] one-fourth of one per cent of the gross revenues from the carrier’s business during the preceding calendar year, or the sum of [\$10,] \$20, whichever is greater. Gross revenues include all revenues received from services connected with or incidental to the transportation [services as described in] of persons or the transportation of property, as defined under section [271-4(6), and (7).] 271-4.

(b) Every common carrier by motor vehicle and every contract carrier by motor vehicle paying a fee under subsection (a) may impose a surcharge to recover the amount paid above one-eighth of one per cent of gross income. The surcharge imposed shall not be subject to the notice, hearing, and approval requirements of this chapter; provided that the surcharge may be imposed by the utility only after thirty days’ notice to the public utilities commission. Unless ordered by the public utilities commission, the surcharge shall be imposed only until the conclusion of the carriers’ next rate case; provided that the surcharge

shall be subject to refund with interest at the public utility's authorized rate of return on rate base if the utility collects more money from the surcharge than actually paid due to the increase in the fee to one-fourth of one per cent.

[(b)] (c) The commission shall establish fair and reasonable fees for the following [applications which shall be paid to the commission at the time of submission to it of the] applications:

- (1) Applications for certificates and permits as provided by sections 271-12 and 271-13[.];
- (2) Applications for extensions of certificates as provided by section 271-12(d)[.];
- (3) Applications for temporary certificates and permits as provided by section 271-16[.]; and
- (4) [Application] Applications for authority to [sell, lease, assign, encumber, merge, etc., the] convey property necessary or useful in the performance of duties to the public or to transfer certificates or permits or to purchase motor carrier stock, [etc.,] as provided in section 271-18.

The fees charged pursuant to this subsection shall be paid to the commission at the time of submission of the application.

[(c)] (d) The commission may charge an amount it deems necessary and reasonable to defray the cost of supplying to the carriers and the public the application forms and other forms, schedules, tariffs, copies of [regulations,] rules, and other pamphlets and materials it provides [either] by [the] individual copy or in bulk.

[(d)] (e) All of the fees and charges collected under this section shall be [paid into the treasury of the State.] deposited with the director of finance to the credit of the public utilities commission special fund established under section 269-”

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary for fiscal year 1994-1995, to be deposited into the public utilities commission special fund for the purpose of ensuring continuous services by the commission and the division of consumer advocacy.

SECTION 6. The sum appropriated shall be expended by the public utilities commission for the purposes of this Act; provided that the commission shall allocate a portion of the funds to the division of consumer advocacy until sufficient moneys are available in the public utilities commission special fund to cover the operating costs of the commission and the division of consumer advocacy.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 8. This Act shall take effect upon its approval; provided that sections 5 and 6 shall take effect on July 1, 1994.

(Approved June 22, 1994.)

#### Notes

1. Period should be underscored.
2. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Intoxicating Liquor.

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

SECTION 1. Section 281-57, Hawaii Revised Statutes, is amended to read as follows:

“§281-57 [Notice.] **Preliminary hearing; notice of public hearing.** (a) Upon the filing of the investigator’s report upon any application the liquor commission may hold a preliminary hearing and upon such preliminary hearing it may deny the application.

(b) If no preliminary hearing is had or if the application is not denied upon a preliminary hearing, the commission shall fix a day for the public hearing of the application (other than an application for an alcohol license or a license in classes 7 to 10 and 13) and shall publish notice of the hearing at least once in each of two consecutive weeks (two insertions) in some newspaper published in the English language in the county (or if there be none such then in the city and county of Honolulu) having a general circulation in the county, the date of the hearing to be not less than forty-five days after the first publication. The notice shall require that all protests or objections against the issuance of the license applied for shall be filed with the administrator of the commission at or before the time of hearing. Before making such publication the commission shall collect from the applicant the cost of making the publication or require a deposit to cover the same.

(c) Immediately upon the commission’s fixing a day for the public hearing of the application, the applicant shall mail a notice setting forth the time and place of the hearing on the application[,] to each of the following:

- (1) [not] Not less than two-thirds of the owners and lessees of record of real estate and owners of record of shares in a cooperative apartment or to those individuals on the list of owners as provided by the managing agent or governing body of the shareholders association situated within a distance of five hundred feet from the nearest point of the premises for which the license is asked to the nearest point of such real estate or cooperative apartment[, not less than forty-five days prior to the date set for the hearing of the application; provided that before the hearing the applicant shall file with the commission an affidavit as to such mailing of notice; and]; provided [further] that in meeting this requirement, the applicant shall mail a notice to not less than three-fourths of the owners and lessees of record of real estate and owners of record of shares in a cooperative apartment situated within a distance of one hundred feet from the nearest point of the premises [as provided in this section.] for which the license is asked. Notice by mail may be addressed to the last known address of the person concerned or to the address as shown in the last tax return filed by the person or the person’s agent or representative[. In addition, for];
- (2) In counties with a population of one hundred fifty thousand or more, not less than two-thirds of the registered voters residing within, and small businesses situated within, a distance of five hundred feet from the nearest point of the premises for which the license is asked; provided that in meeting this requirement, the applicant shall mail notices to not less than three-fourths of the registered voters residing

within, and small businesses situated within, a distance of one hundred feet from the nearest point of the premises for which the license is asked. This paragraph shall not apply to any applicant that is a hotel as defined in section 486K-1, a restaurant, or a convenience store. A notice sent pursuant to this paragraph shall be addressed to the "occupant" of the residential unit or small business; and

- (3) For each condominium project and cooperative apartment within the [affected] five hundred foot area, one notice of the hearing shall be sent by mail addressed "To the Residents, Care of the Manager", followed by the name and address of the condominium or cooperative apartment involved.

The notices required under this subsection shall be mailed at least forty-five days prior to the date set for the hearing. Before the hearing, the applicant shall file with the commission an affidavit that the notices have been mailed in compliance with this subsection. The commission shall cancel the hearing if not receiving the affidavit prior to the hearing or if discovering that the affidavit is false.<sup>1</sup>

(d) For purposes of this section, notice to one co-owner and one co-lessee of real estate shall be sufficient notice to all co-owners and all co-lessees[, excepting] of that real estate; except that one notice shall be sent to each individual unit of a cooperative apartment as provided in this section."

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 statutory material is underscored.

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

(Approved June 22, 1994.)

**Note**

1. Should be underscored.

**ACT 228**

H.B. NO. 3600

A Bill for an Act Relating to Housing.

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

SECTION 1. The legislature finds that the closure of Hamakua Sugar Company and C. Brewer and Company sugar operations on the Hilo-Hamakua Coast of the Big Island will have significant detrimental impacts on the area's community. One of the important concerns facing Hilo-Hamakua residents relates to their housing needs. Currently, sugar employees, their families, and company retirees reside in approximately four hundred twenty-five plantation homes owned and operated by the Hamakua Sugar Company. With the closing of the company, many of these families will face the prospect of being homeless unless they can continue to reside in the plantation camp housing. Although discussions were initiated regarding the possibility of a state or county entity assuming responsibility over the plantation camp houses, no final determination has been made.



The four hundred twenty-five housing units are situated within eight major plantation camps spread out over twenty-five miles along the Hamakua coast. These plantation camps are over fifty years old and are served by standard roads and water and sewage disposal systems. Due to the age of the camps and the deteriorating condition of much of their infrastructure, it will be a substantial challenge to continue to provide the necessary services and maintain basic public health and safety.

Employees who purchased their own homes are also concerned about their housing situation. With the imminent loss of their jobs, many employees will undergo a transition period as they seek new employment, participate in job training programs, or seek other opportunities. While incomes may be greatly diminished, these employees must continue to make their home mortgage payments and meet other living expenses. Many of these employees or former employees in transition would not be able to qualify for a loan under conventional loan-writing standards.

The purpose of this Act is to address the housing needs of the Hilo-Hamakua coast residents on the island of Hawaii who will be in danger of losing their homes and shelter due to the closure of the Hamakua Sugar and C. Brewer and Company sugar operations. Specifically, this Act provides:

- (1) An emergency loan program that will provide temporary assistance to families who, as a result of plantation closure, require help to make mortgage payments on their homes; and
- (2) A grant program to address administrative, maintenance, and emergency infrastructure improvement costs to ensure the continued operation of Hamakua Sugar Plantation Camp housing units.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$600,000, or so much thereof as may be necessary for fiscal year 1994-1995, to provide low-interest loans of up to \$10,000 each to employees and former employees of the Hilo Coast Processing Company and the Hamakua Sugar Company to provide for the payment of their monthly mortgage loan payment, which may include but not be limited to, principal and interest payments, real property taxes, and insurance. The loans shall be limited to one loan per household and the rate of interest on loans made pursuant to this Act shall not exceed three per cent per annum. Interest earnings on funds appropriated and loans made pursuant to this Act may be used for administrative and other expenses necessary for administering the loan program. Loans made pursuant to this Act may not require repayment to begin for a period of two years after the loan agreement is executed. Loan proceeds distributed may be made directly to the borrower's note and mortgage holder to ensure timely payment of the borrower's mortgage payment. Guidelines for administering this loan program shall be established by the housing finance and development corporation.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$600,000, or so much thereof as may be necessary for fiscal year 1994-1995, to enable the housing finance and development corporation to develop and implement a grant program to address administrative, maintenance, and critical infrastructure improvement costs to ensure the continued operation of Hamakua Sugar Plantation Camp Housing Units.

The housing finance and development corporation shall develop as part of this grant program a special rental subsidy program for employees, former employees who are in transition to other employment, and retirees of the Hamakua Sugar Company who are currently residing in the plantation camp areas.

SECTION 4. The housing finance and development corporation shall submit a status report on actions taken under the requirements of this Act to the legislature not later than twenty days prior to the convening of the regular session of 1995.

SECTION 5. The housing finance and development corporation shall submit a report to the legislature of the use of funds appropriated in Section 58, Act 289, Session Laws of Hawaii 1993, not later than twenty days prior to the convening of the regular session of 1995.

SECTION 6. The sums appropriated shall be expended by the housing finance and development corporation for the purposes of this Act.

SECTION 7. This Act shall take effect on July 1, 1994.

(Approved June 22, 1994.)

## ACT 229

S.B. NO. 495

A Bill for an Act Relating to Sentencing.

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

SECTION 1. Section 706-620, Hawaii Revised Statutes, is amended to read as follows:

**“§706-620 Authority to withhold sentence of imprisonment.** A defendant who has been convicted of a crime may be sentenced to a term of probation unless:

- (1) The crime is first or second degree murder or attempted first or second degree murder;
- (2) The crime is a class A felony[;], except class A felonies defined in chapter 712, part IV;
- (3) The defendant is a repeat offender under section 706-606.5; [or]
- (4) The defendant is a felony firearm offender as defined in section 706-660.1(2); or
- (5) The crime involved the death of or the infliction of serious or substantial bodily injury upon a child, an elder person, or a handicapped person under section 706-660.2.”

SECTION 2. Section 706-623, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) When the court has sentenced a defendant to be placed on probation, the period of probation shall be [five years upon conviction of a felony, one year upon conviction of a misdemeanor, or six months upon conviction of a petty misdemeanor, unless the defendant is discharged sooner by order of the court.] as follows, unless the court enters the reason therefor on the record and sentences the defendant to a shorter period of probation:

- (a) Ten years upon conviction of a class A felony;
- (b) Five years upon conviction of a class B or class C felony;
- (c) One year upon conviction of a misdemeanor; or

(d) Six months upon conviction of a petty misdemeanor.

The court, on application of a probation officer [or of], on application of the defendant, or on its own motion, may discharge the defendant at any time. Prior to granting early discharge, the court shall afford the prosecuting attorney an opportunity to be heard. The terms of probation provided in this part, other than in this section, shall not apply to sentences of probation imposed under section 706-606.3."

SECTION 3. Section 706-659, Hawaii Revised Statutes, is amended to read as follows:

"[§706-659] Sentence of imprisonment for class A felony. Notwithstanding [sections 706-620 to 706-631, suspension of sentence and probation, and] part II; sections 706-605, 706-606, 706-606.5, 706-660.1, 706-661, and 706-662[.]; and any other law to the contrary, a person who has been convicted of a class A felony, except class A felonies defined in chapter 712, part IV, shall be sentenced to an indeterminate term of imprisonment of twenty years without the possibility of suspension of sentence or probation. The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669. A person who has been convicted of a class A felony defined in chapter 712, part IV, may be sentenced to an indeterminate term of imprisonment, except as provided for in section 706-660.1 relating to the use of firearms in certain felony offenses and section 706-606.5 relating to repeat offenders. When ordering such a sentence, the court shall impose the maximum length of imprisonment which shall be twenty years. The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669."

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

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

(Approved June 22, 1994.)

**ACT 230**

S.B. NO. 576

A Bill for an Act Relating to Taxation.

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

SECTION 1. Act 315, Session Laws of Hawaii 1993, is amended by amending sections 1 and 2 to read as follows:

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

**"CHAPTER  
[HOSPITAL AND] NURSING FACILITY TAX**

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

“Department” means the department of human services.

“Director” means the director of human services.

[“Hospital” means a hospital licensed under sections 321-9 and 321-11, including state and state/county hospitals.

“Hospital income” means the total compensation received for furnishing inpatient or outpatient hospital services, including all receipts from “ancillary services” (as defined in 42 C.F.R. 413.53(b)) to the provision of inpatient and outpatient services, and receipts from items supplied in connection with these services. Hospital income also includes compensation for patients who are on a waiting list to be transferred to a nursing facility or in acute care “swing beds”. “Hospital income” shall not include the following: compensation received for services covered by Title XVIII of the federal Social Security Act (including coinsurance and deductibles received from beneficiaries of the Medicare program and Medicare health maintenance organization or risk sharing contracts); income from an affiliated entity that operates as a prepaid health maintenance organization; settlements from third party payors for services delivered or items supplied prior to the effective date of this Act (such as settlements of cost reports or decision on rate reconsideration requests); income from services provided by separately licensed units (such as distinct part nursing facilities within hospitals); income from grants, bequests, donations, endowments, or investments; income from “nonexempt hospital activities” as defined in section 237-23(b) (such as income from leased property or from parking lots); or amounts of taxes imposed by chapter 237 or this chapter and passed on, collected, and received from the consumer as part of hospital income.]

“Nursing facility” means a nursing facility licensed under sections 321-9 and 321-11 and any intermediate care facility for the mentally retarded person licensed under sections 321-9 and 321-11.

“Nursing facility income” means the total compensation received for furnishing nursing facility services, including all receipts from “ancillary services” (as defined in 42 C.F.R. 413.53(b)) to the provision of nursing facility services, and receipts from items supplied in connection with these services. “Nursing facility income” shall not include the following: compensation received from services covered by Title XVIII of the federal Social Security Act (including copayments and deductibles received from beneficiaries of the Medicare program); income from an affiliated entity that operates as a prepaid health maintenance organization; settlements from third party payors for services delivered or items supplied prior to the effective date of this Act (such as settlements of cost reports or decisions on rate reconsideration requests); income from services provided by separately licensed units (such as distinct part intermediate care facilities for the mentally retarded); income from the provision of adult day health and adult day care programs; income from the provision of home health agency services; income from the provision of “nursing homes without walls” programs; income from the provision of inpatient hospital services; income from grants, bequests, donations, endowments, or investments; or amounts of taxes imposed by chapter 237 or this chapter and passed on, collected, and received from the consumer as part of nursing facility income.

“Operator” means any person operating a nursing facility [or hospital], whether as owner or proprietor, or as lessee, sublessee, mortgagee in possession, licensee, or otherwise, or engaging or continuing in any service business that involves the actual furnishing of nursing facility [or hospital] services.

§ -2 Imposition of tax and rates. (a) There is levied and shall be

assessed and collected during each quarter a tax in the amount of six per cent of all nursing facility income.

[(b) (b) There is levied and shall be assessed and collected during each quarter a tax in the amount of four per cent of all hospital income, except for income subject to taxes imposed by chapter 237.

(c) [(b) Each nursing facility [and hospital] operator shall pay to the State the tax imposed by this section as provided by this chapter.

[(d) (c) The tax imposed by this section shall not apply to an individual facility determined by the department to be financially distressed, pursuant to the rulemaking authority authorized by this chapter; provided that this exemption does not cause the tax to fail to qualify as permissible under section 1903(w) of the federal Social Security Act.

[(e) (d) Each operator of a nursing facility shall identify separately the tax imposed by this section in all invoices or statements to persons whose payments result in nursing facility income. Notwithstanding the foregoing, the amount that a beneficiary of the Medicaid program is required to contribute toward his or her care shall not be changed as a result of the tax imposed by this section.

[(f) (e) The taxes imposed by this section shall terminate at the end of the month following the time at which the taxes no longer qualify as permissible under section 1903(w) of the federal Social Security Act.

§ **-3 Return and payments; penalties.** (a) On or before the fifteenth day of February, May, August, and November, or for fiscal year taxpayers on or before the forty-fifth day after the close of the fiscal quarter, every operator taxable under this chapter during the preceding calendar or fiscal quarter shall file a sworn return with the director in such form as the director shall prescribe, together with a remittance for the amount of the tax in the form of cash, bank draft, cashier's check, money order, or certificate of deposit. In lieu of the remittance, the operator may request withholding from payments made to the operator by the department under section 4. Sections 237-30 and 237-32 shall apply to returns and penalties made under this chapter to the same extent as if the sections were set forth specifically in this section.

(b) Notwithstanding subsection (a), the director, for good cause, may permit an operator to file the operator's return required under this section and make payments thereon, on a semiannual basis during the calendar or fiscal year, the return and payment to be made on or before the last day of the calendar month after the close of each six-month period, to wit: for calendar year operators, on July 31 and January 31 or, for fiscal year operators, on or before the last day of the seventh month following the beginning of the fiscal year and on or before the last day of the month following the close of the fiscal year; provided that the director is satisfied that the grant of the permit will not unduly jeopardize the collection of the taxes due thereon and the operator's total tax liability for the calendar or fiscal year under this chapter will not exceed \$1,000.

The director, for good cause, may permit an operator to make quarterly payments based on the operator's estimated quarterly or semiannual liability; provided that the operator files a reconciliation return at the end of each quarter or at the end of each six-month period during the calendar or fiscal year, as provided in this section.

(c) If an operator filing the operator's return on a semiannual basis, as provided in this section, becomes delinquent in either the filing of the operator's return or the payment of the taxes due thereon, or if the liability of an operator, who possesses a permit to file the operator's return and make payments on a

semiannual basis, exceeds \$1,000 in taxes during the calendar or fiscal taxable year, or if the director determines that any such semiannual filing of a return would unduly jeopardize the proper administration of this chapter, including the assessment or collection of the taxes, the director, at any time, may revoke an operator's permit, in which case the operator then shall be required to file the operator's return and make payments thereon as provided in subsection (a).

(d) Section 232-2 shall apply to the annual return, but not to a quarterly or semiannual return.

§ **-4 Withholding.** As an option to making payments under section -3, the department and the operator in writing may agree that the department will withhold all or part of the amount of taxes owing for a quarter from Medicaid payments owed by the department to the operator. All reports by the department to the federal government or to the operator, of Medicaid payments made to the operator by the department shall include any amount withheld to satisfy the tax obligation imposed by this chapter.

§ **-5 Annual return.** On or before the twentieth day of the fourth month following the close of the calendar or fiscal taxable year, every operator who has become liable for the payment of the taxes under this chapter during the preceding tax year shall file a return summarizing that operator's liability under this chapter for the year, in such form as the director prescribes. The operator shall transmit to the Honolulu office of the department with the return, a remittance covering the residue of the tax chargeable to the operator, if any. The return shall be signed by the operator, if made by an individual, or by the president, vice-president, secretary, or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, firm, society, unincorporated association, group, hui, joint venture, joint stock company, corporation, trust estate, decedent's estate, trust, or other entity, any individual delegated by the entity shall sign the return on behalf of the operator. If for any reason it is not practicable for the individual operator to sign the return, it may be done by any duly authorized agent. The department, for good cause shown, may extend the time for making the return on the application of any operator and grant such reasonable additional time within which to make the return as the department may deem advisable.

Section 232-2 shall apply to the annual return, but not to a quarterly or semiannual return.

§ **-6 Assessment of tax upon failure to make return; limitation period; exceptions; extension by agreement.** (a) If any operator fails to make a return as required by this chapter, the director shall make an estimate of the tax liability of the operator from any information the director obtains, and according to the estimate so made, assess the taxes, interest, and penalty due the State from the operator; give notice of the assessment to the operator; and make demand upon the operator for payment. The assessment shall be presumed to be correct until and unless, upon an appeal duly taken as provided in section -8, the contrary shall be clearly proved by the operator assessed. The burden of proof upon the appeal shall be upon the operator assessed to disprove the correctness of assessment.

(b) After a return is filed under this chapter the director shall cause the return to be examined, and may make such further audits or investigations as the director considers necessary. If the director determines that there is a deficiency with respect to the payment of any tax due under this chapter, the director shall

assess the taxes and interest due the State, give notice of the assessment to the persons liable, and make demand upon the persons for payment.

(c) Except as otherwise provided by this section, the amount of taxes imposed by this chapter shall be assessed or levied within three years after the annual return was filed, or within three years of the due date prescribed for the filing of the return, whichever is later. No proceeding in court without assessment for the collection of any such taxes shall be begun after the expiration of the period.

(d) In the case of a false or fraudulent return with intent to evade tax, or a failure to file the annual return, the tax may be assessed or levied at any time.

(e) Where, before the expiration of the period prescribed in subsection (c) for assessments or in section -7 for credits and refunds, both the department and the operator have consented in writing to the assessment or levy of the tax after the date fixed by subsection (c) or the credit or refund of the tax after the date fixed by section -7, the tax may be assessed or levied, or the overpayment, if any, may be credited or refunded at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

§ -7 **Overpayment; refunds.** Upon application by an operator, if the director determines that any tax, interest, or penalty has been paid more than once, or has been erroneously or illegally collected or computed, the tax, interest, or penalty shall be credited by the director on any taxes then due from the operator under this chapter. The director shall refund the balance to the operator or the operator's successors, administrators, executors, or assigns in accordance with section 231-23. As to all tax payments for which a refund or credit is not authorized under this section (including, without prejudice to the generality of the foregoing, cases of unconstitutionality), the remedies provided by appeal or under section 40-35 are exclusive. No credit or refund shall be allowed for any tax imposed by this chapter, unless a claim for the credit or refund is filed as follows:

- (1) If an annual return is timely filed, or is filed within three years after the date prescribed for filing the annual return, then the credit or refund shall be claimed within three years after the date the annual return was filed or the date prescribed for filing the annual return, whichever is later; and
- (2) If an annual return is not filed, or is filed more than three years after the date prescribed for filing the annual return, a claim for credit or refund shall be filed within:
  - (A) Three years after the payment of the tax; or
  - (B) Three years after the date prescribed for the filing of the annual return, whichever is later.

The preceding limitation shall not apply to a credit or refund pursuant to an appeal, provided for in section -8.

§ -8 **Appeals.** Any operator aggrieved by any assessment of the tax imposed by this chapter for any quarter or any year, may appeal from the assessment in the manner and within the time and in all other respects, as provided in the case of income tax appeals by section 235-114; provided the tax so assessed shall have been paid.

§ -9 **Records to be kept; examination; penalties.** (a) Every operator

shall keep, in the English language, within the State, and preserve for a period of three years, suitable records relating to nursing facility [or hospital] income taxed under this chapter, and such other books, records of account, and invoices as may be required by the department. All such books, records, and invoices shall be open for examination at any time by the department or the department of taxation, or the authorized representative thereof. For the purposes of determining the amount of taxes due under this chapter, every operator shall keep its books and records of account on the accrual basis [with the exception of hospitals in the state community hospital system].

(b) Any operator violating this section shall be guilty of a misdemeanor; and any officer, director, president, secretary, or treasurer of a corporation who permits, aids, or abets the corporation to violate this section shall likewise be guilty of a misdemeanor. The penalty for this misdemeanor shall be that prescribed by section 231-34 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section.

**§ -10 Disclosure of returns unlawful; destruction of returns.** (a) All tax returns and return information required to be filed under this chapter, and the report of any investigation of the return or of the subject matter of the return, shall be confidential. It shall be unlawful for any person or any officer or employee of the State to intentionally make known information imparted by any tax return or return information filed pursuant to this chapter, or any report of any investigation of the return or of the subject matter of the return, or to wilfully permit any such return, return information, or report so made, or any copy thereof, to be seen or examined by any person; provided that for tax purposes only the operator, the operator's authorized agent, or persons with a material interest in the return, return information, or report may examine the same. Unless otherwise provided by law, persons with a material interest in the return, return information, or report shall include:

- (1) Trustees;
- (2) Partners;
- (3) Persons named in a board resolution or a one per cent shareholder in the case of a corporate return;
- (4) The person authorized to act for a corporation in dissolution;
- (5) A shareholder of an S corporation;
- (6) The personal representative, trustee, heir, or beneficiary of an estate or trust in the case of the estate's or decedent's return;
- (7) The committee, trustee, or guardian of any person in paragraphs (1) to (6) who is incompetent;
- (8) The trustee in bankruptcy or receiver, and the attorney-in-fact of any person in paragraphs (1) to (7);
- (9) Persons duly authorized by the State in connection with their official duties; and
- (10) Any duly accredited tax official of the United States or any state or territory.

Any violation of this subsection shall be a misdemeanor. Nothing in this subsection shall prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items of the reports or returns.

(b) The department may destroy the quarterly or semiannual returns filed pursuant to section -3, or any of them, upon the expiration of three years after the end of the calendar or fiscal year in which the taxes so returned accrued.



§ -11 **Collection by suit; injunction.** The department may collect taxes due and unpaid under this chapter, together with all accrued penalties, by action in assumpsit or other appropriate proceedings in the district or circuit court of the judicial circuit in which the taxes arose, regardless of the amount. After delinquency has continued for sixty days, the department may proceed in the circuit court of the judicial circuit in which the nursing facility [or hospital] income is taxed to obtain an injunction restraining the further furnishing of nursing facility [or hospital] services until full payment is made of all taxes, penalties, and interest due under this chapter.

§ -12 **Application of taxes.** The taxes imposed by this chapter shall be in addition to any other taxes imposed by any other laws of the State; provided that if it is held by any court of competent jurisdiction that the taxes imposed by this chapter may not legally be imposed in addition to any other tax or taxes imposed by any other law or laws with respect to the same property and the use thereof, then this chapter shall be deemed not to apply to the property and the use thereof under the specific circumstances, but the other laws shall be given full effect with respect to the property and use.

§ -13 **Administration and enforcement; rules.** (a) The director shall administer and enforce this chapter. With respect to:

- (1) The examinations of books and records, and operators and other persons;
- (2) Procedures and powers upon failure or refusal by an operator to make a return or proper return; and
- (3) The general administration of this chapter;

the director shall have all rights, powers, and duties conferred by chapters 231 and 237 with respect to powers and duties or with respect to taxes imposed under chapter 237. Without restriction upon these rights and powers, section 237-8 and sections 237-36 to 237-41 are made applicable to and with respect to taxes, operators, department officers, and other persons, and the matters and things affected or covered by this chapter, insofar as these sections are not inconsistent with this chapter, in the same manner, as nearly as may be, as in similar cases covered by chapter 237.

(b) The director may adopt rules under chapter 91 to carry out this chapter.

(c) The department may contract with the department of taxation for assistance in implementing and administering this chapter.

§ -14 **Taxes; allowable reimbursement costs.** All taxes paid pursuant to this chapter shall be deemed allowable and reimbursable costs for federal Medicaid reimbursement purposes. The department shall make appropriate adjustments to the methods and standards for reimbursing nursing facilities [or hospitals] under section 346-14 by a Medicaid state plan amendment which shall become effective on federal approval. In the case of any program involving federal Medicaid participation, the adjustment shall take effect no earlier than the effective date of any federally-approved Medicaid state plan amendment containing any such adjustment.

§ -15 **Health care revolving fund.** The department shall collect the tax and pay all tax revenues into the state general fund for deposit into the health

care revolving fund which is hereby created in the state treasury. Amounts deposited in the health care revolving fund, and any interest earned on these amounts, shall be used only for section 346-14 Medicaid purposes. Any federal Medicaid matching funds to expenditures made from funds deposited in the health care revolving fund shall not become part of the health care revolving fund. The funds in the health care revolving fund shall be expended by the department.

§ **-16 Evasion of tax, etc.; penalties.** It shall be unlawful:

- (1) For any operator to:
  - (A) Refuse to make the return required in section -5;
  - (B) Make any false or fraudulent return or false statement in any return, with intent to defraud the State or to evade the payment of any tax imposed by this chapter; and
  - (C) For any reason to aid or abet another in any attempt to evade the payment of any tax imposed by this chapter; or
- (2) For the president, vice-president, secretary, or treasurer of any corporation to make or permit to be made for any corporation or association any false return, or any false statement in any return required by this chapter, with the intent to evade the payment of any tax imposed by this chapter.

Any person violating this section or section 231-34 in relation to the tax imposed by this chapter, shall be punished as provided in section 231-34. Any corporation for which a false return, or return containing a false statement is made, shall be fined in the amount provided in section 231-34.

SECTION 2. Section 237-24.7, Hawaii Revised Statutes, is amended to read as follows:

**“§237-24.7 Additional amounts not taxable.** In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

- (1) Amounts received by the operator of a hotel from the owner of the hotel in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

“Employee” means employees directly engaged in the day to day operation of the hotel and employed by the operator.

“Hotel” means an operation licensed under section 445-92.

“Owner” means the fee owner or lessee under a recorded lease of a hotel.

“Operator” means any person who, pursuant to a written contract with the owner of a hotel, operates or manages the hotel for the owner;

- (2) Amounts received by the operator of a county transportation system operated under an operating contract with a political subdivision, where the political subdivision is the owner of the county transportation system. As used in this paragraph:

“County transportation system” means a mass transit system of motorized buses providing regularly scheduled transportation within a county.

“Operating contract” or “contract” means a contract to operate and manage a political subdivision’s county transportation system, which provides that:

- (A) The political subdivision shall exercise substantial control over all aspects of the operator’s operation;
- (B) The political subdivision controls the development of transit policy, service planning, routes, and fares; and
- (C) The operator develops in advance a draft budget in the same format as prescribed for agencies of the political subdivision. The budget must be subject to the same constraints and controls regarding the lawful expenditure of public funds as any public sector agency, and deviations from the budget must be subject to approval by the appropriate political subdivision officials involved in the budgetary process.

“Operator” means any person who, pursuant to an operating contract with a political subdivision, operates or manages a county transportation system.

“Owner” means a political subdivision that owns or is the lessee of all the properties and facilities of the county transportation system (including buses, real estate, parking garages, fuel pumps, maintenance equipment, office supplies, etc.), and that owns all revenues derived therefrom;

- (3) Surcharge taxes on rental motor vehicles imposed by chapter 251 and passed on and collected by persons holding certificates of registration under that chapter;
- (4) Amounts received by the operator of orchard properties from the owner of the orchard property in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

“Employee” means an employee directly engaged in the day to day operations of the orchard properties and employed by the operator.

“Orchard property” means any real property that is used to raise trees with a production life cycle of fifteen years or more producing fruits or nuts having a normal period of development from the initial planting to the first commercially saleable harvest of not less than three years.

“Owner” means a fee owner or lessee under a recorded lease of orchard property.

“Operator” means a producer who, pursuant to a written contract with the owner of the orchard property, operates or manages the orchard property for the owner where the property contains an area sufficient to make the undertaking economically feasible; and

- (5) Taxes on nursing facility [or hospital] income imposed by chapter and passed on and collected by operators of nursing facilities [or hospitals].<sup>1</sup>”

SECTION 2. Act 315, Session Laws of Hawaii 1993, is amended by amending section 8 to read as follows:

“SECTION 8. This Act, upon its approval, shall:

- (1) Take effect on July 1, 1993, or the effective date of reimbursement changes referred to in section -14 of section 1 of this Act, whichever is later; and
- (2) Apply to [hospital and] nursing facility income arising from activities occurring on and after the effective date of this Act and before July 1, 1995.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underlined.

SECTION 4. This Act shall take effect on the last day of the month before the department of human service's implementation of the Hawaii Health QUEST program; provided that all taxes shall be levied, assessed, and collected under Act 315, Session Laws of Hawaii 1993, through the last day of the month preceding the implementation of the QUEST program.

(Approved June 22, 1994.)

**Note**

1. Paragraph missing.

**ACT 231**

S.B. NO. 1628

A Bill for an Act Making an Appropriation for the Dredging of Maunalua Bay.

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

SECTION 1. The legislature finds that the Hawaii Kai marina main entrance channel, near the Kalaniana'ole bridge overpass, has been filling with sand. If sand keeps flowing into the channel, boats will be unable to navigate through the channel.

The marina, although private, serves several important public functions in times of emergency. The marina is the only safe harboring area for boats along the coast in case of a sudden storm or surge. If there is a hazardous waste or sewage spill, the marina may serve as an important base for clean up operations. Rescue operations and fire equipment may also be transported via the marina.

The legislature declares that keeping the entrance to the Hawaii Kai marina in navigable condition serves a public purpose because important health, safety, and welfare considerations are involved.

The purpose of this Act is to appropriate funds to dredge the Hawaii Kai marina main entrance channel and declare that this dredging will serve to fulfill a health, welfare, and safety concern.

SECTION 2. The director of finance is authorized to issue general obligation bonds in the sum of \$240,000, or so much thereof as may be necessary, and the same sum, or so much thereof as may be necessary, is appropriated for fiscal year 1994-1995, for the dredging of Maunalua Bay at the main entrance channel to the Hawaii Kai marina.

SECTION 3. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1994.

(Approved June 22, 1994.)

A Bill for an Act Relating to a Spouse/Child Abuse Special Account.

*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 be appropriately designated and to read as follows:

**“§338- Copies of certificate; fees.** All fees received for the issuance of certified copies of birth, marriage, or death certificates shall be remitted to the director of health. Upon the receipt of remittances under this section, the director of health shall deposit \$1.50 for each certified copy to the credit of the spouse and child abuse special account established under section 346- , shall deposit \$1.50 for each certified copy to the credit of the spouse and child abuse special account established under section 601- , and shall deposit the remainder of the fee for each certified copy to the credit of the state general fund.”

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§346- Spouse and child abuse special account; department of human services.** (a) There is established within the state treasury a special fund to be known as the “spouse and child abuse special account”, and to be administered and expended by the department of human services.

(b) The proceeds of the account shall be reserved for use by the department of human services for staff programs, and grants or purchases of service, consistent with chapter 42D, that support or provide spouse or child abuse intervention or prevention as authorized by law. These proceeds shall be used for new or existing programs and shall not supplant any other funds previously allocated to these programs. The account shall be kept separate and apart from all other funds in the treasury.

(c) The account shall consist of fees remitted pursuant to sections 338- and 572-5, interest and investment earnings, grants, donations, and contributions from private or public sources. All realizations of the account shall be subject to the conditions specified in subsection (b).

(d) The department of human services, in coordination with the department of health, shall submit an annual report to the legislature, prior to the convening of each regular session, providing an accounting of the receipts of and expenditures from the account.”

SECTION 3. Chapter 601, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§601- Spouse and child abuse special account; judiciary.** (a) There is established within the state treasury a special fund to be known as the “spouse and child abuse special account”, and to be administered and expended by the judiciary.

(b) The proceeds of the account shall be reserved for use by the judiciary for staff programs, and grants or purchases of service, consistent with chapter 42D, that support or provide spouse or child abuse intervention or prevention as authorized by law. These proceeds shall be used for new or existing programs and shall not supplant any other funds previously allocated to these programs. The

account shall be kept separate and apart from all other funds in the treasury.

(c) The account shall consist of fees remitted pursuant to sections 338- and 572-5, interest and investment earnings, grants, donations, and contributions from private or public sources. All realizations of the account shall be subject to the conditions specified in subsection (b).

(d) The judiciary, in coordination with the department of health, shall submit an annual report to the legislature, prior to the convening of each regular session, providing an accounting of the receipts of and expenditures from the account."

SECTION 4. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

**"§36-27 Transfers from special funds for central service expenses.** Except as hereinafter provided, and notwithstanding any provisions of any other law to the contrary, there shall be deducted from time to time by the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the special summer school fund under section 298-3.5; the school cafeteria special funds of the community colleges and the department of education; the special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii; the state educational facilities improvement special fund; the spouse and child abuse special account under section 346-\_\_\_\_\_; the spouse and child abuse special account under section 601-\_\_\_\_\_; and the convention center capital and operations special fund, five per cent of all receipts of each such special fund, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers."

SECTION 5. Section 36-30, Hawaii Revised Statutes, is amended to read as follows:

**"§36-30 Special fund reimbursements for departmental administrative expenses.** Each special fund, except the transportation use special fund established by section 261D-1; the special summer school fund under section 298-3.5; the school cafeteria special funds of the community colleges, and the department of education; the special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii; the spouse and child abuse special account under section 346-\_\_\_\_\_; the spouse and child abuse special account under section 601-\_\_\_\_\_; and the state educational facilities improvement special fund, shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned. Administrative expenses shall include, but shall not be limited to, salaries, maintenance of buildings and grounds, utilities, and general office expenses. The pro rata share of each special fund shall be that proportion of the administrative expenses of the department, including those paid from all special funds administered by the department, which the expenditures of the special fund bear to the total expenditures of the department; provided that in determining the amount to be charged to each special fund for its pro rata share, credit shall be given for any administrative expenses paid from the special fund concerned and

such other adjustments shall be made as may be necessary to achieve an equitable apportionment. The director of finance may determine the amount to be charged to each special fund and may cause the amounts to be transferred to the general funds as reimbursements.”

SECTION 6. Section 572-5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The department of health shall appoint, and at its pleasure remove, one or more suitable persons as agents authorized to grant marriage licenses under this chapter in each judicial circuit. [Such] The agents may issue licenses from any state facility when deemed necessary by the director. Any agent appointed under this subsection and receiving an application for a marriage license[,] shall collect from the applicant for the license [\$16,] \$25, of which the agent, except those provided for in subsection (b), shall retain \$8 for the agent’s benefit and compensation and shall remit [~~\$8~~] \$17 to the director of [finance of the State.] health. Upon the receipt of remittances under this subsection, the director of health shall deposit \$8 for each license issued to the credit of the general fund of the State, shall deposit \$4.50 for each license issued to the credit of the spouse and child abuse special account established under section 346-\_\_\_\_, and shall deposit \$4.50 for each license issued to the credit of the spouse and child abuse special account established under section 601-\_\_\_\_.

(b) The department may appoint, as regular employees under the civil service and classification laws, the number of suitable persons as agents authorized to grant marriage licenses for whom provision has been made in the general appropriation act. In the case of [such] these agents, the full amount collected from applicants shall be remitted to the director of [finance as a general realization of the State.] health. Upon the receipt of remittances under this subsection, the director of health shall deposit \$16 for each license issued to the credit of the general fund of the State, shall deposit \$4.50 for each license issued to the credit of the spouse and child abuse special account established under section 346-\_\_\_\_, and shall deposit \$4.50 for each license issued to the credit of the spouse and child abuse special account established under section 601-\_\_\_\_.”

SECTION 7. The department of health shall amend section 2.10 of chapter 8b, of the department’s rules, by increasing the fee charged for the issuance of certified copies of any birth, death, or marriage certificate from \$2 to not less than \$5.

SECTION 8. (a) There is appropriated out of the spouse and child abuse special account established under section 346-\_\_\_\_, Hawaii Revised Statutes, a sum not to exceed \$400,000, for fiscal year 1994-1995, for the department of human services to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of human services.

(b) There is appropriated out of the spouse and child abuse special account established under section 601-\_\_\_\_, Hawaii Revised Statutes, a sum not to exceed \$400,000, for fiscal year 1994-1995, for the judiciary to carry out the purposes of this Act.

The sum appropriated shall be expended by the judiciary.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect on July 1, 1994, except that section 1 shall not take effect until the effective date of the amendments to the rules of the department of health required by section 7 of this Act.

(Approved June 22, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 233**

S.B. NO. 2161

A Bill for an Act Making an Appropriation for the Collection and Disposal of Household Hazardous Wastes.

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

**SECTION 1. Statewide household hazardous waste collection program.**

The department of health shall develop and administer, in coordination with the solid waste divisions of the various counties, a statewide program for the collection and proper disposal of household hazardous wastes generated in households throughout the State. The program shall be known as the statewide household hazardous waste collection program. A primary element of the program shall be an educational element with a focus on household hazardous waste minimization through the use of safe alternatives, proper product purchase and use, and recycling or reuse options, whenever possible. Whenever possible, the program shall seek the cooperation, and in-kind assistance of other state and county agencies to secure the use of buildings and necessary facilities to serve as household hazardous waste collection stations; provided that these stations meet the minimum standards of worker and environmental safety applicable under law. The handling, storage, transport, and disposal of household hazardous wastes accumulated by the program under this section shall be in accordance with applicable county, state, and federal laws governing the disposition of household hazardous wastes. The department shall submit an annual report to the legislature prior to the convening of each regular legislative session detailing the expenditures made and the collection projects undertaken by the program.

For the purposes of this section, "household hazardous waste" means post-consumer domestic solid waste exhibiting one or more of the physical or chemical properties characteristic of hazardous waste.

**SECTION 2.** The department of health, in coordination with the various counties, shall prepare a plan providing details about the following:

- (1) The scope of the statewide household hazardous waste collection program;
- (2) The state and county responsibilities in carrying out the program; and
- (3) A breakdown of budgetary requirements, including county participation.

The department shall submit the plan, with its findings and recommendations, to the legislature no later than twenty days prior to the convening of the regular session of 1995.



**ACT 234**

SECTION 3. The department of health shall develop and conduct an educational and outreach program during fiscal year 1994-1995. The focus of the educational and outreach program shall be to:

- (1) Increase awareness of the problems resulting from the improper disposal of household hazardous wastes;
- (2) Educate the public concerning the use and availability of environmentally-safe alternatives; and
- (3) Promote current county efforts in household hazardous waste collection.

SECTION 4. 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 fiscal year 1994-1995, for the outreach and educational program developed by the department of health pursuant to this Act.

SECTION 5. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 6. This Act shall take effect on July 1, 1994.

(Approved June 22, 1994.)

**ACT 234**

S.B. NO. 2162

A Bill for an Act Relating to the Environment.

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

SECTION 1. During the past two decades, the legislature has focused much of its efforts to improve the quality of the environment on enacting legislation that makes cleaning up the ambient air and water, preventing further pollution, and remediating past pollution top priorities. These actions were taken to help prevent the unhealthy chronic exposure of Hawaii's people to pollutants. The programs established to regulate activities that introduce pollutants into the environment have been very successful in reducing human exposure to ambient pollutants. It is critical to the health of the State's population that the department of health continue its efforts to maintain and further reduce current levels of ambient pollutants.

The legislature finds that:

- (1) Americans spend up to ninety per cent of the day indoors and, as a result, have a significant potential for exposure to contaminants in the indoor air;
- (2) Exposure to indoor air contamination occurs in work places, schools, public buildings, residences, and transportation vehicles;
- (3) Recent scientific studies nationally indicate that pollutants in the indoor air include radon, asbestos, volatile organic chemicals, combustion by-products, metals and gases, respirable particles, biological contaminants, microorganisms, and other contaminants;
- (4) A number of contaminants found in both ambient air and indoor air may occur at higher concentrations in indoor air than in outdoor air;

- (5) Indoor air pollution poses serious threats to public health (including cancer, respiratory illness, multiple chemical sensitivities, skin and eye irritation, and related effects);
- (6) Indoor air contamination is estimated to cause significant increases in medical costs and declines in work productivity; and
- (7) Sources of indoor air pollution include conventional ambient air pollution sources, building materials, consumer and commercial products, combustion appliances, indoor application of pesticides, and other sources.

The legislature further finds that current national and local risk-ranking polls among knowledgeable environmental scientists and concerned citizens reveal that indoor air quality (IAQ) ranks very high on the list of unmet environmental health needs. These findings are based on the following facts and assumptions:

- (1) In the last several years, a growing body of scientific evidence has indicated that the air within homes and other buildings may be more seriously polluted than the outdoor air, even in the largest and most industrialized cities;
- (2) Other research indicates that people spend approximately ninety per cent of their time indoors. Consequently, for most people the health risks from exposure to indoor air pollution may be greater than that from outdoor pollution; and
- (3) Additionally, people who may be exposed to indoor air pollution for the longest periods of time are often those most susceptible to the adverse effects of indoor air pollution. These people include the young, the elderly, and the chronically ill, especially those suffering from respiratory or cardiovascular diseases.

The purpose of this Act is to establish an indoor air pollution program within the department of health to educate the public about IAQ and establish and coordinate a government-wide IAQ assessment network.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

## **"PART . INDOOR AIR QUALITY**

**§321- Definitions.** As used in this part:

"Department" means the department of health.

"Director" means the director of health.

"Publicly owned building" means any building or structure, including a hospital or a school, that is owned, leased, or operated by the State; provided that it shall be a building or structure in which individuals employed by the State work during normal operations.

**§321- Indoor air quality program.** There is established an indoor air quality program within the department. The department may place this program within any appropriate division.

**§321- General functions, powers, and duties of the department.**

(a) The director shall provide information and educational material regarding indoor air pollution to the managers, owners, and occupants of publicly owned buildings, and may assist any manager, owner, or occupant of a publicly owned building to identify, assess, and correct indoor air pollution problems.

(b) The director may provide information and educational material regarding indoor air pollution to any manager, owner, or occupant of a building that is not a publicly owned building, and may assist any manager, owner, or occupant of a building that is not a publicly owned building to identify, assess, and correct indoor air pollution problems.

(c) The director shall establish and coordinate an indoor air quality assessment network of state agencies and facility managers of publicly owned buildings to identify, assess, and correct indoor air pollution problems.

(d) The director may establish a program for the approval of plans to construct ventilation systems, the inspection of ventilation system construction, and the monitoring of existing ventilation systems for proper maintenance.

(e) The director may adopt rules in accordance with chapter 91 to effectuate the purposes of this part.”

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

(Approved June 22, 1994.)

**ACT 235**

S.B. NO. 2728

A Bill for an Act Making an Appropriation for Agricultural Research and Development.

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

SECTION 1. The legislature finds that agriculture is one of the State’s most important industries and a vital component of the State’s economic base. The legislature also finds that although sugar will continue to be Hawaii’s primary export product, the sugar industry is downsizing in an effort to remain efficient, productive, and cost-effective. With the downsizing of the sugar industry, agricultural research is becoming increasingly more important for maintaining and improving current crops grown across the State and for developing new crops so that the State can take the best economic advantage of the thousands of acres of prime agricultural lands that are becoming available. The legislature also finds that the Hawaiian Sugar Planters’ Association is seeking to transfer the ownership of its experiment station to a new organization, the Hawaii Agriculture Research Corporation (HARC). Under HARC ownership, the experiment station will be capable of conducting proven, results-oriented, scientific research for the State’s agriculture industry and will be a key resource in the State’s efforts to strengthen the agriculture industry, revitalize the economy, and maintain and create new employment opportunities in rural areas.

The purpose of this Act is to provide the necessary funds to maintain the current staff and resources of the Hawaiian Sugar Planters’ Association’s experiment station and to effectuate its orderly transfer to the Hawaii Agriculture Research Corporation.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary for fiscal year 1994-1995, for agricultural research, development, and extension to be performed by the experiment station of the Hawaiian Sugar Planters’ Association or the successor organization to the Hawaiian Sugar Planters’ Association,

in consultation with the department of agriculture; provided that no funds shall be released unless funds are matched dollar-for-dollar in cash or in-kind donations, or a combination of both, by the Hawaiian Sugar Planters' Association or its successor organization.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 1994-1995, for pineapple research, development, and extension also to be performed by the experiment station of the Hawaiian Sugar Planters' Association or the successor organization to the Hawaiian Sugar Planters' Association, in consultation with the department of agriculture; provided that no funds shall be released unless funds are matched dollar-for-dollar in cash or in-kind donations, or a combination of both, by the Hawaiian Sugar Planters' Association or its successor organization.

SECTION 4. The sums appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 1994.

(Approved June 22, 1994.)

## ACT 236

S.B. NO. 2837

A Bill for an Act Relating to Schools.

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

SECTION 1. Chapter 6E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§6E- Exemptions for public educational facilities.** (a) Section 6E-8 shall not apply to the repair or replacement of public educational facilities which have been damaged or destroyed by natural disaster.

(b) No public educational facility shall be placed on the Hawaii register of historic places by the Hawaii historic places review board, except through direct consultation and in collaboration with the state agency or other entity having jurisdiction over the facility. If the agencies involved cannot reach agreement, they shall submit such dispute for resolution through an arbitrator mutually selected by the parties whose decision shall be binding.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval, and shall be repealed on July 1, 1996.

(Approved June 22, 1994.)

### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Making an Appropriation for the Provision of Ambulance Services on Oahu.

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

SECTION 1. The legislature finds that there is a critical need to provide additional ambulance units and increased ambulance service to the metropolitan Honolulu, Mililani, Kahaluu/Kaaawa, Leeward, and Hawaii Kai areas of Oahu. With increased populations in these areas, the ability to respond within the accepted medical response time of ten minutes may be jeopardized. A timely response to life-threatening traumatic injuries is very critical especially when expert cardiopulmonary resuscitation is necessary.

The purpose of this Act is to provide additional ambulance units and increased ambulance services on Oahu.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$110,000, or so much thereof as may be necessary for fiscal year 1994-1995, for an additional ambulance unit for metropolitan Honolulu.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,195,460, or so much thereof as may be necessary for fiscal year 1994-1995, for the provision of increased ambulance service on the island of Oahu.

SECTION 4. The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 1994.

(Approved June 22, 1994.)

A Bill for an Act Relating to Hawaii Qualified Health Centers.

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

SECTION 1. The legislature finds that community health centers play an important role in serving many of Hawaii's most medically disadvantaged. Many of those who use community health centers are uninsured and have or will have their health care financed by government programs such as QUEST, Medicaid, SHIP, and Medicare, or through chapter 42D, Hawaii Revised Statutes.

These not-for-profit community health centers are strong patient advocates and are governed by community-based boards. Community health centers have traditionally offered translation services, outreach, and preventive primary care services that are culturally sensitive. The legislature further finds that movement into managed care systems should not unintentionally result in a decrease of primary care services, outreach, or other enabling services, especially for those who are less likely to receive health services through a health insurance system.

Furthermore, the amendments to QUEST allow for many enabling services to be optional. Hence, community-based outreach is essential in controlling health care costs to this population.

The purpose of this Act is to designate Hawaii qualified health centers (HQHCs) and to assure cost-based reimbursements for HQHCs for the delivery of enabling services such as outreach and necessary translation and cultural services.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§321- Additional duties of the director.** Any health center previously designated as a Federally Qualified Health Center (FQHC), FQHC look alike, or Rural Health Clinic (RHC) shall have comparable designation as a Hawaii Qualified Health Center and shall also be known as Essential Community Providers. The director of health, with the concurrence of the director of human services, shall have the authority to designate other Hawaii health centers not yet federally designated but deserving of support to meet short term public health needs based on the department of health’s criteria, as Hawaii Qualified Health Centers.”

SECTION 3. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§346- Hawaii qualified health centers.** If the QUEST program is implemented, the department shall provide a supplemental capitation program for the uninsured with enabling services based on an annual cost-based determination to all Hawaii qualified health centers (HQHCs) and to any nonprofit entity having a majority of HQHCs as board members.

For the purposes of this section, “enabling services” includes enabling services as defined by federally qualified health center standards. The department shall have the administrative flexibility to expend funds through QUEST contracts, through a modified voucher system, or through chapter 42D. HQHCs receiving these supplemental payments shall reconcile their costs on an annual basis.”

SECTION 4. New statutory material is underscored.<sup>1</sup>

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

(Approved June 22, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 239**

S.B. NO. 2979

A Bill for an Act Relating to the Establishment of the University of Hawaii at Manoa Laboratory School Summer Programs Revolving Fund.

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

SECTION 1. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

## ACT 240

“§304- University of Hawaii at Manoa laboratory school summer programs revolving fund. There is established the University of Hawaii at Manoa laboratory school summer programs revolving fund, from which shall be paid the cost of operations of the laboratory school summer programs. The laboratory school may establish appropriate charges for activities related to its summer programs, the proceeds from which shall be deposited into this revolving fund.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 22, 1994.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 240

S.B. NO. 3254

A Bill for an Act Making an Appropriation for the 1994 Samoan Flag Day.

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

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,000, or so much thereof as may be necessary for fiscal year 1994-1995, for the celebration of the 1994 Samoan Flag Day.

SECTION 2. The sum appropriated shall be expended by the state foundation on culture and the arts for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1994.

(Approved June 22, 1994.)

## ACT 241

S.B. NO. 3307

A Bill for an Act Relating to Governmental Assistance.

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

SECTION 1. The legislature finds that the steady decline of the sugar industry has threatened the economic stability of the entire Hilo-Hamakua coast on the island of Hawaii. As a result, the social structure of the community in this area is at risk of collapse. The residents of the Hilo-Hamakua coast, as well as people throughout Hawaii, have an urgent interest in stabilizing the economic and social conditions of the Hilo-Hamakua region.

The State has assumed a proactive role in assisting the Hilo-Hamakua community. For example, the legislature provided a state loan guarantee that ensured a final harvest at Hamakua Sugar Company. The legislature also designated the entire Hamakua planning region as a community development district, thereby authorizing the replanning, renewal, and redevelopment of the region by the Hawaii community development authority.

The residents of the Hilo-Hamakua coast have themselves assumed much of the responsibility for determining their own future. They have organized to develop programs and projects that will help them shape their communities. For example, the Hamakua/North Hilo Agricultural Cooperative has been formed to help start up a variety of alternative crops to be grown on lands now planted in sugar. The Employment and Training Task Force has created a number of training programs which have been successful in placing people in jobs.

In addition, the Hamakua Resource Center serves as a source of information about training opportunities, educational programs, health insurance, and other matters. The Hamakua Housing Corporation, a private non-profit effort, has been formed to ensure that those living in employee housing are the ones to make decisions about housing. The Hamakua Medical Center, which in the past was heavily subsidized by the Hamakua Sugar Company, has been transformed into an independent, private non-profit entity with tax-exempt status.

These examples demonstrate that in this time of crisis the community has made significant strides to mobilize its internal resources to develop structures to replace the vacuum created by the departure of sugar. However, the problems to be overcome are monumental. As such, the community has asked for assistance in a variety of specific areas. The purpose of this Act is to provide additional resources to assist the Hilo-Hamakua community in its effort to restructure its economy and support its social structure.

SECTION 2. Act 311, Session Laws of Hawaii 1993, is amended by amending Section 6 to read as follows:

“SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary for fiscal [year] years 1993-1994[,] and 1994-1995, to carry out the purposes of this Act. The sum appropriated shall be expended by the department of [business, economic development, and tourism] budget and finance for purposes of this Act. The sum of \$472,500 may be used for the following purposes:

- (1) Resource/Family/Youth centers with outreach (5.50 FTE) workers and counseling services; and development of a child care services system;
- (2) Newspaper and community bulletin board;
- (3) Agricultural infrastructure development;
- (4) Aquaculture and community-based agricultural programs;
- (5) Primary health care center subsidies;
- (6) Transitional support employment and training for dislocated workers; and
- (7) Hamakua community liaison position.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000, or so much thereof as may be necessary for fiscal year 1994-1995, to assist the Hilo-Hamakua community for the following purposes:

- (1) Resource/Family/Youth centers with outreach (5.50 FTE) workers and counseling services; and development of a child care services system;
- (2) Newspaper and community bulletin board;



ACT 242

- (3) Agricultural infrastructure development;
- (4) Aquaculture and community-based agricultural programs;
- (5) Primary health care center subsidies;
- (6) Transitional support employment and training for dislocated workers;  
and
- (7) Hamakua community liaison position.

SECTION 4. The sums appropriated in section 3 of this Act shall be expended by the department of budget and finance for the purposes of this Act.

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

SECTION 6. This Act shall take effect upon its approval; provided that section 3 shall take effect on July 1, 1994.

(Approved June 22, 1994.)

ACT 242

S.B. NO. 2615

A Bill for an Act Relating to a Comprehensive Emergency Medical Services System for Children.

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

SECTION 1. Section 321-221, Hawaii Revised Statutes, is amended to read as follows:

“**§321-221 Findings and purpose.** The legislature finds that the establishment of a state comprehensive emergency medical services system to include but not be limited to emergency medical services for children is a matter of compelling state interest[,] and necessary to protect and preserve the health of the people of the State. A system designed to reduce medical emergency deaths, injuries, and permanent long-term disability through the implementation of a fully integrated, cohesive network of components, the legislature further finds, will best serve the health needs of the people. Accordingly, the purpose of this part is to establish and maintain a state comprehensive emergency medical services system throughout the State, and to fix the responsibility for the administration of this state system which shall provide for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery of health care services under emergency conditions whether occurring as the result of a patient’s condition or of natural disasters or other causes. The system shall provide for personnel, personnel training, communications, emergency transportation, facilities, coordination with emergency medical and critical care services, coordination and use of available public safety agencies, promotion of consumer participation, accessibility to care, mandatory standard medical record keeping, consumer information and education, independent review and evaluation, disaster linkage, mutual aid agreements, and other components necessary to meet the purposes of this part.”

SECTION 2. Section 321-222, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Emergency medical services for children” means comprehensive emergency medical services including preventive, pre-hospital, hospital, rehabilitative, and other post-hospital care for children.”

SECTION 3. Section 321-224, Hawaii Revised Statutes, is amended to read as follows:

**“§321-224 Department of health, functions, duties.** In addition to other functions and duties assigned under this part, the department shall:

- (1) Regulate ambulances and ambulance services;
- (2) Establish emergency medical services throughout the State, which shall meet the requirements of this part, subject to section 321-228;
- (3) Provide training for basic life support personnel and [advance] advanced life support personnel, as provided in section 321-229;
- (4) Collect and evaluate data for the continued evaluation of the state system subject to section 321-230;
- (5) Coordinate emergency medical resources[,] and the allocation of the state system’s services and facilities[,] in the event of mass casualties, natural disasters, national emergencies, and other emergencies, ensuring linkage to local, state, and national disaster plans, and participation in exercises to test these plans;
- (6) Establish, administer, and maintain a communication system for the state system;
- (7) Assist each county in the development of a “911” emergency telephone system;
- (8) Secure technical assistance and other assistance and consultation necessary [to] for the implementation of this part, subject to section 321-230;
- (9) Implement public information and education programs to inform the public of the state system and its use, and disseminate other emergency medical information, including appropriate methods of medical self-help and first-aid, and the availability of first-aid training programs in the State;
- (10) Establish standards and provide training for dispatchers in the state system, and maintain a program of quality assurance for dispatch equipment and operations;
- (11) Establish a program that will enable emergency service personnel to provide early defibrillation; [and]
- (12) Establish within the department the emergency medical service system for children program; and
- [12)] (13) Consult with the advisory committee on matters relating to the implementation of this part.”

SECTION 4. Section 321-225, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The advisory committee shall be composed of twenty members: three nonvoting ex-officio members, who shall be the director of transportation, the

adjutant general, and the administrator of the state health planning and development agency, or the designated representatives thereof, and seventeen members representing all counties of the State [and] who shall be appointed by the governor subject to section 26-34 as follows:

- (1) Five members who shall be physicians experienced in the conduct and delivery of emergency medical services; provided that at least two shall be engaged in the [full time] practice of emergency medicine and be [board eligible or board certified] board-eligible or board-certified by the American Board of Emergency Medicine[;], and provided further that at least one physician shall be engaged in the practice of pediatrics and be board-eligible or board-certified by the American Board of Pediatrics;
- (2) Four members who shall be consumers of health care and who shall have no connection with or relationship to the health care system of the State and who shall be representative of all counties;
- (3) Four members of allied health professions related to emergency medical services; and
- (4) Four members, one from each county, who shall be mobile intensive care technicians or emergency medical technicians engaged in the [full time] practice of [prehospital] pre-hospital emergency medical service.

The members of the advisory committee shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties, including travel expenses. The chairperson of the advisory committee shall be elected by the members from among their numbers. A majority of the members of the advisory committee shall constitute a quorum for the conduct of business of the advisory committee. A majority vote of the members present at a meeting at which a quorum is established shall be necessary to validate any action of the committee.”

SECTION 5. Section 321-230, Hawaii Revised Statutes, is amended to read as follows:

**“§321-230 Technical assistance, data collection, evaluation.** The department of health may contract for technical assistance and consultation, including but not limited to categorization, data collection, and evaluation appropriate to the needs of the state system. The collection and analysis of statewide emergency medical services data, including pediatrics, trauma, cardiac, medical, and behavioral medical emergencies is for the purpose of improving the quality of services provided.

For the purposes of this section, “categorization” means systematic identification of the readiness and capabilities of hospitals and their staffs to adequately, expeditiously, and efficiently receive and treat emergency patients.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 29, 1994.)

## ACT 243

H.B. NO. 2949

A Bill for an Act Relating to Children.

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

SECTION 1. The legislature finds that the youth of Hawaii are an important human resource and represent the future of the State. As such there should be a week honoring the State's youth and reinforcing the ongoing programs for and community efforts in educating and rearing them. The purpose of this Act is to establish a day and a week honoring the State's children.

SECTION 2. Chapter 8, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§8- Children’s Day and Week.** The first Sunday in October shall be known and designated as “Children’s Day”, and the following week shall be known and designated as “Children’s Week”. This day and week are not and shall not be construed to be state holidays.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1994.

(Approved June 29, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 244

H.B. NO. 2219

A Bill for an Act Relating to Missing Children.

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

SECTION 1. Chapter 577, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§577- Missing children; reporting.** (a) Upon the filing of a police report that a child is missing by the parent or guardian, the law enforcement agency receiving notification shall:

- (1) Immediately inform all on-duty law enforcement officers of the existence of the missing child report;
- (2) Report pertinent information about the missing child to any other law enforcement agency having jurisdiction in the county; and
- (3) Immediately transmit pertinent information on the missing child for inclusion within the state juvenile justice information system, and, if it appears that the juvenile has left the State or may leave the State, the National Crime Information Center system.

(b) A missing child report filed with a law enforcement agency which has jurisdiction is sufficient documentation for entering a juvenile in the missing persons' files of the juvenile justice information system, the National Crime

ACT 245

Information Center, or both. Law enforcement agencies having jurisdiction over the missing child shall comply with any information required by the National Crime Information Center to effectuate the purpose of this Act.

(c) In the case of a parental kidnapping, the law enforcement agency shall obtain from the reporting parent or guardian a certified copy of the custody papers.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 29, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 245

H.B. NO. 2220

A Bill for an Act Relating to Custodial Interference.

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

SECTION 1. Section 707-726, Hawaii Revised Statutes, is amended to read as follows:

“§707-726 **Custodial interference in the first degree.** (1) A person commits the offense of custodial interference in the first degree if:

- (a) [Being a] A relative of a [person less than eighteen years old] minor:
    - (i) [The person] intentionally or knowingly violates a court order issued pursuant to chapter 586, or the person intentionally or knowingly takes, [or] entices, conceals, or detains the [person] minor from any other person who has a right to custody pursuant to a court order, judgment, or decree; and
    - (ii) [The person removes] Removes the [person’s self and the person less than eighteen years old] minor from the State; or
  - (b) The [person] relative intentionally or knowingly takes, [or] entices, conceals, or detains [another person] a child less than eleven years old from that [other person’s] child’s lawful custodian, knowing that the [person] relative had no right to do so.
- (2) Custodial interference in the first degree is a class C felony.”

SECTION 2. Section 707-727, Hawaii Revised Statutes, is amended to read as follows:

“[[§707-727]] **Custodial interference in the second degree.** (1) A person commits the offense of custodial interference in the second degree if:

- (a) [He] The person intentionally or knowingly takes, [or] entices, conceals, or detains a [person less than eighteen years old from his lawful custodian,] minor knowing that [he] the person has no right to do so; or
- (b) [He] The person intentionally or knowingly takes, [or] entices, conceals, or detains from lawful custody any incompetent person, or

other person entrusted by authority of law to the custody of another person or an institution.

(2) Custodial interference in the second degree is a misdemeanor[.], if the minor or incompetent person is taken, enticed, concealed, or detained within the State. If the minor or incompetent person is taken, enticed, concealed, or detained outside of the state under this section, custodial interference in the second degree is a class C felony."

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

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

(Approved June 29, 1994.)

## ACT 246

H.B. NO. 2221

A Bill for an Act Relating to Law Enforcement.

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

SECTION 1. Throughout the country, authorities classify about one million eight hundred thousand children as missing each year. These children have either run away or been abducted or been discarded by their parents. All these children are vulnerable and need protection from abuse and exploitation.

The legislature finds that children who have been abducted by a stranger or a family member are particularly vulnerable. Non-custodial parents are responsible for the overwhelming majority of child abduction cases. For example, in 1988, an estimated three hundred fifty-four thousand one hundred children were abducted by a family member.

In recognition of this problem, forty-two states and the District of Columbia have established state clearinghouses to:

- (1) Coordinate the efforts of law enforcement, social services, education and prevention programs, and legislative advocacy groups;
- (2) Disseminate photographs of missing children; and
- (3) Assist in efforts to secure the safe return of children.

The purpose of this Act is to establish a state clearinghouse and resource center, on a pilot project basis, to address the problem of missing and exploited children.

**SECTION 2. Missing children state clearinghouse and resource center; programs; report.** (a) There is established within the department of the attorney general a three-year pilot project to be known as the missing children state clearinghouse center to assist in the implementation of federal and state laws relating to missing children.

(b) The missing children state clearinghouse center shall include programs to coordinate the efforts of county and state agencies with those of federal agencies in locating, recovering, and protecting missing children and to promote community awareness of the problem of missing children.

(c) The department of the attorney general shall employ, without regard to chapters 76 and 77, a coordinator who shall coordinate existing public and private resources and further define and develop, to the extent of available resources, the

most appropriate system for addressing the problem of missing children, which may include the following:

- (1) A communication network among the county and state law enforcement agencies and the National Crime Information Center in Washington, D.C.;
- (2) A standardized reporting system in all counties developed in conjunction with law enforcement officials at all levels;
- (3) The establishment of trained search teams that can be activated in each county;
- (4) Educational programs designed to prevent child abduction, enhance child safety, and raise public awareness about ways to prevent child abduction, molestation, and sexual exploitation;
- (5) A directory of resources to assist in locating missing children including names, addresses, and services provided by public and private organizations; and
- (6) A statewide centralized, uniform, computerized information database relating to family-related and non-family-related child abductions, as well as runaways and children who are unwanted by their parents.

**SECTION 3. Hawaii missing children's clearinghouse trust fund.** (a)

There is established the Hawaii missing children's clearinghouse trust fund as a separate fund of the Hawaii Justice Foundation, a Hawaii nonprofit corporation. Moneys received from the state, county, or federal government, private contributions of cash or other property, and the income and capital gains earned by the trust fund shall constitute its assets.

(b) The Hawaii Justice Foundation shall expend moneys from the trust fund to support efforts to implement the purposes of the missing children state clearinghouse center in accordance with section 2.

(c) The trust fund may receive contributions, grants, endowments, or gifts in cash or otherwise from all sources, including corporations or other businesses, foundations, government, individuals, and other interested parties. The legislature intends that the public and private sectors work together as partners in securing contributions for the trust fund. The State may donate moneys to the trust fund by legislative appropriation; provided that any appropriations made by the State are not intended to supplant the funding of existing missing children's clearinghouse programs.

(d) The Hawaii Justice Foundation shall appoint the members of the Hawaii missing children's clearinghouse advisory board, which shall be responsible for:

- (1) Soliciting and otherwise raising funds for the Hawaii missing children's clearinghouse trust fund;
- (2) Establishing criteria for the expenditure of funds; and
- (3) Making recommendations for grants and other specific expenditures.

Members of the advisory board shall be selected from the community by the Hawaii Justice Foundation from lists of candidates provided by the governor's office of children and youth and the Hawaii state commission on the status of women. Community and business leaders from the private sector, victim parents, and victims of child abduction shall be represented on the advisory board.

(e) The aggregate principal sum deposited in the Hawaii missing children's clearinghouse trust fund, and any income and capital gains earned by the trust fund but not expended for administration or for the purposes of section 2, shall be invested in accordance with the provisions of the Hawaii Justice Foundation in a manner intended to maximize the rate of return on investment of the

trust fund consistent with the objective of preserving the trust fund's principal.

(f) There shall be an endowment component of the Hawaii missing children's clearinghouse trust fund.

(g) The use of any state funds may be restricted by the legislation appropriating these funds to the Hawaii missing children's clearinghouse trust fund.

(h) All state funds appropriated to the trust fund by this Act that are not matched by private contributions by June 30, 1997, shall be due and owing to the State on July 1, 1997. For purposes of this section, the requirement for matching private contributions shall be deemed satisfied if the receipt of any of the following occurs prior to the matching deadline:

- (1) Cash, including the United States dollar equivalent of foreign currency, is received by the fund;
- (2) Interest and title in personal property, including securities and cash value of life insurance policies, and real property, valued by appraisal, market quotations, or other generally accepted valuation methods, are transferred to the fund; or
- (3) Pledges to the fund of cash or interest and title to real or personal property, payable not later than five full years following the date by which the funds contributed by the State are to be matched, are received by the fund; provided that any sums appropriated by the State and matched by such pledges within the matching period shall be due and owing to the State at the end of the five-year period to the extent that the sums appropriated by the State are not matched by actual payment of the pledges within the five-year period.

(i) Any organization submitting a proposal to the Hawaii Justice Foundation for trust fund moneys shall meet all of the following standards at the time of application:

- (1) Be a profit organization incorporated under the laws of the State, or be a nonprofit organization determined by the Internal Revenue Service to be exempt from the federal income tax, or be an agency of the State or a county;
- (2) In the case of a nonprofit organization, have a governing board whose members have no material conflict of interest and serve without compensation;
- (3) In the case of an applicant that is not a state or county government agency, have bylaws or policies that describe the manner in which business is conducted and policies that relate to the management of potential conflict of interest situations;
- (4) Have experience with the project or in the program area for which the proposal is being made; and
- (5) Be licensed and accredited, as applicable, in accordance with the requirements of federal, state, and county governments.

(j) The missing children state clearinghouse center shall receive first consideration for trust fund awards for programs consistent with the purposes of section 2.

(k) Organizations or agencies to which trust fund moneys are awarded shall agree to comply with the following conditions before receiving the award:

- (1) Employ or have under contract persons qualified to engage in the activity to be funded;
- (2) Comply with applicable federal, state, and county laws; and
- (3) Comply with any other requirements prescribed by the Hawaii Justice Foundation to ensure adherence by the recipient of the award



## ACT 247

with applicable federal, state, and county laws and with the purposes of section 2.

(l) The results of the annual audit of the Hawaii Justice Foundation shall be submitted to the department of the attorney general not later than thirty days from the date the Hawaii Justice Foundation receives the audit results. In addition, the Hawaii Justice Foundation shall retain for a period of three years and permit the department of the attorney general, the department of accounting and general services, state legislators, and the auditor, or duly authorized representatives, to inspect and have access to any documents, papers, books, records, and other evidence that is pertinent to the trust fund.

(m) In the event of termination of the trust fund or the dissolution of the Hawaii Justice Foundation, the unspent appropriations of the State, if any, shall revert back to the State. Any other amounts remaining in the Hawaii missing children's clearinghouse trust fund shall be distributed in accordance with the recommendations of the board of the Hawaii Justice Foundation.

(n) The Hawaii missing children's trust fund shall not be placed in the state treasury, and the State shall not administer the fund, nor shall the State be liable for its operation or solvency.

SECTION 4. The attorney general shall submit reports of the progress of the missing children state clearinghouse center and the Hawaii missing children clearinghouse trust fund no later than twenty days prior to the convening of the regular sessions of 1995, 1996, and 1997.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$32,000, or so much thereof as may be necessary for fiscal year 1994-1995, for the salary of a coordinator and start-up equipment and supplies for the missing children state clearinghouse center.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1, or so much thereof as may be necessary for fiscal year 1994-1995, for deposit into the Hawaii missing children clearinghouse trust fund, to be matched by private sector donations in accordance with the provisions of this Act.

SECTION 7. The sums appropriated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 8. This Act shall take effect on July 1, 1994, and shall be repealed on June 30, 1997.

(Approved June 29, 1994.)

## ACT 247

H.B. NO. 2190

A Bill for an Act Relating to Attorneys' Fees.

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

SECTION 1. Chapter 571, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§571- Award of costs and reasonable attorneys’ fees. Whenever a party files a motion seeking to enforce a child support order, the court may award the prevailing party the party’s costs and reasonable attorneys’ fees incurred, except as this chapter otherwise provides. The award shall be made only when the prevailing party was represented by an attorney.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 29, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 248**

S.B. NO. 2288

A Bill for an Act Relating to the Landlord-tenant Code.

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

SECTION 1. Section 521-7, Hawaii Revised Statutes, is amended to read as follows:

“§521-7 Exclusions from application of chapter. Unless created solely to avoid the application of this chapter, this chapter shall not apply to:

- (1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, geriatric, educational, religious, or similar services;
- (2) Residence in a structure directly controlled and managed by the University of Hawaii for housing students or faculty of the University of Hawaii or residence in a structure erected on land leased from the University of Hawaii by a nonprofit corporation for the exclusive purpose of housing students or faculty of the University of Hawaii;
- (3) Occupancy under a bona fide contract of sale of the dwelling unit or the property of which it is a part where the tenant is, or succeeds to the interest of, the purchaser;
- (4) Residence by a member of a fraternal organization in a structure operated without profit for the benefit of the organization;
- (5) Transient occupancy on a day to day basis in a hotel or motel;
- (6) Occupancy by an employee of the owner or landlord whose right to occupancy is conditional upon such employment or by a pensioner of the owner or landlord;
- (7) A lease of improved residential land for a term of fifteen years or more, measured from the date of the commencement of the lease;
- (8) Occupancy by the prospective purchaser after an accepted offer to purchase and prior to the actual transfer of the owner’s rights;
- (9) Occupancy in a homeless facility, or any other program for the homeless authorized under chapter 358D; [or]
- (10) Residence or occupancy in a public housing complex or shelter

**ACT 249**

directly controlled, owned, or managed by the Hawaii housing authority[.]; or

- (11) Residence or occupancy in a transitional facility for abused family or household members.”

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

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

(Approved June 29, 1994.)

**ACT 249**

H.B. NO. 2921

A Bill for an Act Relating to Equine Activities.

*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  
EQUINE ACTIVITIES**

§ **-1 Definitions.** As used in this section, unless the context otherwise requires:

“Engages in an equine activity” means riding, training, assisting in medical treatment or physical therapy of, driving, or being a passenger upon an equine, whether mounted or unmounted, or any person assisting a participant or show management. The term does not include being a spectator at an equine activity, except in cases where a spectator places oneself in an unauthorized area and in immediate proximity to the equine activity.

“Equine” means a horse, pony, mule, donkey, or hinny.

“Equine activity” means:

- (1) Equine shows, fairs, competitions, performances, or parades that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding and western games, and hunting;
- (2) Equine training or teaching activities, or both;
- (3) Boarding equines;
- (4) Riding, inspecting, or evaluating an equine belonging to another whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine;
- (5) Rides, trips, hunts, or other equine activities of any type however informal or impromptu that are sponsored by an equine activity

sponsor; and

- (6) Placing or replacing horseshoes on an equine.

“Equine activity sponsor” means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for, an equine activity, including, but not limited to pony clubs, 4-H clubs, hunt clubs, riding clubs, school and college-sponsored classes, programs, and activities, therapeutic riding programs, and operators, instructors, and promoters of equine facilities, including, but not limited to stables, clubhouses, ponyride strings, fairs, and arenas at which the activity is held.

“Equine professional” means a person engaged for compensation in instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine, or in renting equipment or tack to a participant.

“Inherent risks of equine activities” means those dangers or conditions which are an integral part of equine activities, including, but not limited to:

- (1) The propensity of an equine to behave in ways that may result in injury, harm, or death to persons on or around them;
- (2) The unpredictability of an equine’s reaction to such things as sounds, sudden movement, and unfamiliar objects, persons, or other animals;
- (3) Certain hazards such as surface and subsurface conditions;
- (4) Collisions with other equines or objects; and
- (5) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within the participant’s ability.

“Participant” means any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

§ -2 **Equine activities; rebuttable presumption.** (a) In any civil action for injury, loss, damage, or death of a participant, there shall be a presumption that the injury, loss, damage, or death was not caused by the negligence of an equine activity sponsor, equine professional, or their employees or agents, if the injury, loss, damage, or death was caused solely by the inherent risk and unpredictable nature of the equine. An injured person or their legal representative may rebut the presumption of no negligence by a preponderance of the evidence.

(b) Nothing in this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, or their employees or agents if the equine activity sponsor, equine professional, or person:

- (1) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and the equipment or tack was a proximate cause of the injury;
- (2) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity; or determine the ability of the participant to engage safely in the equine activity; or determine the ability of the participant to safely manage the particular equine based on the participant’s representations of the participant’s ability; or determine the characteristics of the particular equine and suitability of the

equine to participate in equine activities with the participant; or failed to reasonably supervise the equine activities and such failure is a proximate cause of the injury;

- (3) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known or reasonably should have been known to the equine activity sponsor, equine professional, or person, or for which reasonable warning signs have not been conspicuously posted;
- (4) Commits an act or omission that constitutes gross negligence or wilful or wanton disregard for the safety of the participant, and that act or omission caused the injury; or
- (5) Intentionally injures the participant.

(d) Nothing in subsection (a) shall prevent or limit the liability of an equine activity sponsor or an equine professional under liability provisions as set forth in the products liability laws or in sections 142-63, 142-64, 142-65, 142-66, and 142-68.

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

(Approved June 29, 1994.)

ACT 250

H.B. NO. 2449

A Bill for an Act Relating to Tort Liability.

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

SECTION 1. Section 90-1, Hawaii Revised Statutes, is amended by amending the definition of "volunteer" to read as follows:

"The term "volunteer" means any person who of the person's own free will provides goods or services to an agency with no monetary or material gain and includes material donors, occasional-service, regular-service, and stipended volunteers. Without limiting the generality of the foregoing, the term "volunteer" specifically includes any health care provider accepted in writing by the department of health as a "volunteer" who provides free medical or dental treatment, diagnosis, or advice to indigent and medically underserved patients, whether acting individually or in cooperation with a nonprofit organization."

SECTION 2. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§663- Exemption for providing shelter and subsistence to the needy.** (a) Any charitable or nonprofit organization that in good faith provides shelter or proper means of subsistence to needy persons as part of its bona fide and customary charitable activities, rendered without remuneration or expectation of remuneration, shall be exempt from civil liability for injuries and damages resulting from the organization's acts or omissions in providing such shelter or subsistence, except for gross negligence or wanton acts or omissions of the organization.

(b) Any person who donates goods, food, materials, or services to a charitable or nonprofit organization described in subsection (a) shall be exempt from civil liability for injuries and damages resulting from the donation, except for gross negligence or wanton acts or omissions.

(c) As used in this section, “needy person” means any person who lacks adequate or proper means of subsistence.”

SECTION 3. Section 358D-6, Hawaii Revised Statutes, is amended to read as follows:

“**§358D-6 Exception to liability for donors.** (a) Any donor who gives money to a provider agency, to a homeless facility, to or through the authority, or for any other program for the homeless authorized by this chapter, shall not be liable for any civil damages resulting from the donation.

(b) Any donor who gives land and improvements, or who leases land and improvements at a nominal consideration, to a provider agency, to a homeless facility, to or through the authority, or for any other program for the homeless authorized by this chapter, shall not be liable for any civil damages resulting from the donation except as may result from the donor’s gross negligence or wanton acts or omissions; provided that, if the donor at the time of donation gave the authority a full accounting of all the dangers concerning the land and improvements known to the donor, then the donor shall not be liable for any civil damages resulting from the donation.

(c) Any donor who in good faith and without remuneration or expectation of remuneration provides services or materials used to build and construct a<sup>1</sup> facility for the homeless [facility], or who renovates, repairs, or maintains an existing or acquired facility for the homeless, or who provides shelter to homeless persons, shall not be liable for any civil damages resulting from the donor’s acts or omissions, except for damages resulting from the donor’s gross negligence relating to the donation.

(d) The authority shall be responsible for inspecting, reviewing, analyzing, qualifying, and determining that the land, structures, materials, or services donated to [or through] the authority for use by the [homeless] authority in facilities, or other programs for the homeless,] for the homeless are reasonably safe for public use.”

SECTION 4. This Act shall apply only to causes of action based upon acts or omissions occurring on or after its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

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

(Approved June 29, 1994.)

#### Notes

1. “A” should not be underscored.
2. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Social Workers.

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

SECTION 1. The purpose of this Act is to set standards of qualification, education, and experience for those persons who seek to represent themselves to the public as social workers.

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

**“CHAPTER  
SOCIAL WORKERS**

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

“Department” means the department of commerce and consumer affairs.

“Director” means the director of commerce and consumer affairs.

“Exempt government employee” means an employee in a social worker position with any federal, state, or county government agency.

“Practice of social work” means applying the formal knowledge base, theoretical concepts, specific functional skills, and essential social values that are used to effect change in human behavior, emotional responses, and social conditions, and helping individuals, couples, families, groups, and community organizations enhance or restore their capacities for personal and social functioning and preventing and controlling social problems. Social work practice is the professional application of social work values, principles, and techniques in the following areas:

- (1) Information, resource identification and development, and referral services;
- (2) Preparation and evaluation of psychosocial assessments and development of social work service plans;
- (3) Case management, coordination, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems;
- (4) Administration, development, implementation, and evaluation of social work programs and policies;
- (5) Clinical diagnosis, treatment, and prevention of psychosocial dysfunction, disability, or impairment, including emotional and mental disorders;
- (6) Social work consultation; or
- (7) Research through the formal organization and methodology of data collection and the analysis and evaluation of social work data practice.

“Social worker” or “licensed social worker” means a person who:

- (1) Uses the title of “social worker”;
- (2) Has met the licensing requirements set forth in this chapter; and
- (3) Who engages in the practice of social work as defined in this section.

§ **-2 Social worker licensing program.** There is established a social worker licensing program within the department to be administered by the director.

§ **-3 Powers and duties of the director.** In addition to any other powers and duties authorized by law, the director shall have the following powers and duties:

- (1) Grant permission to a person to use the title of social worker in this State pursuant to this chapter and the rules adopted pursuant thereto;
- (2) Adopt, amend, or repeal rules pursuant to chapter 91 as the director finds necessary to carry out the provisions of this chapter;
- (3) Administer, coordinate, and enforce this chapter and rules adopted pursuant thereto;
- (4) Discipline a licensed social worker for any cause described by this chapter or for any violation of the rules, fine any government employee employed as a social worker for any cause described by this chapter, and refuse to license a person for failure to meet licensing requirements or for any cause that would be grounds for disciplining a licensed social worker; and
- (5) Appoint an advisory committee consisting of licensed social workers to assist with the implementation of this chapter and the rules adopted pursuant thereto.

§ **-4 Fees; disposition.** (a) Application, examination, reexamination, license, renewal, late renewal penalty fees, and other reasonable and necessary fees relating to administration of this chapter, none of which are refundable, shall be as provided in rules adopted by the director pursuant to chapter 91.

(b) Fees assessed shall defray all costs to be incurred by the director to support the operation of the social worker licensing program. Fees collected shall be managed in accordance within section 26-9(1).

§ **-5 License required.** No person shall purport to be a "social worker" or "licensed social worker", or use the letters "S.W." or "L.S.W." in connection with the person's name, or use any words or symbols indicating or tending to indicate that the person is a social worker without meeting the applicable requirements and holding a license as set forth in this chapter.

§ **-6 Exemptions.** Licensure shall not be required of:

- (1) Any person doing work within the scope of practice or duties of the person's profession that overlaps with the practice of social work; provided the person does not purport to be a social worker or licensed social worker;
- (2) Any person employed by a federal, state, or county government agency in a social worker position but only at those times when that person is carrying out the duties and responsibilities as a social worker in governmental employment; and
- (3) Any student enrolled in an accredited educational institution in a recognized program of study leading toward attainment of a degree in social work; provided that the student's activities and services are part of a prescribed course of study supervised by the educational institution, and the student is identified by an appropriate title such as "social work student", "social work intern", or any other title which clearly indicates the student's training status.



§ **-7 Licensing requirements.** In addition to the licensing requirements provided by section 436B-11, the director shall consider the following as minimum evidence that an applicant is qualified to be licensed:

- (1) The applicant holds a master's degree from an accredited college or university in a social work program accredited by the Council on Social Work Education or a doctoral degree accredited by the Western Association of Schools and Colleges or a comparable regional accreditation body; and
- (2) The applicant has passed the national examination given by the American Association of State Social Work Boards.

§ **-8 Application for examination.** (a) Any person eligible for licensure who wishes to be licensed shall apply for examination to the director at least ninety days prior to the date of the examination, upon a form and in the manner that the director shall prescribe.

(b) Any application to the director shall be accompanied by a nonrefundable application fee.

(c) A person who fails an examination may apply for reexamination.

§ **-9 Examination for license.** (a) Each applicant for licensure shall take and pass a written national examination administered by the American Association of State Social Work Boards in accordance with procedures and standards prescribed by the director.

(b) Applicants who have passed the Academy of Certified Social Workers examination administered by the National Association of Social Workers prior to June 30, 1995, shall be deemed to have satisfied the requirements of this section.

(c) The examination fee shall be paid by the applicant directly to the American Association of State Social Work Boards.

§ **-10 Issuance of license.** The director shall issue a license to any person who meets all licensure requirements and pays the appropriate fees.

§ **-11 Renewals.** Every license issued under this chapter shall be renewed triennially on or before June 30, with the first renewal deadline occurring on June 30, 1998. Failure to renew a license shall result in a forfeiture of the license. Licenses which have been so forfeited may be restored within one year of the expiration date upon payment of renewal and penalty fees. Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license and relicensure may be subject to the person applying as a new applicant and satisfying again all licensing requirements.

§ **-12 Revocation, suspension, denial, or condition of licenses; fines.** (a) In addition to any other acts or conditions provided by law, the director may refuse to renew, reinstate, or restore, or may deny, revoke, suspend, or condition in any manner any license, or fine any exempt government employee for any one or more of the following acts or conditions on the part of the applicant, licensee, or exempt person:

- (1) Failing to meet or maintain the conditions and requirements necessary to qualify for the granting of a license;
- (2) Being addicted to, dependent on, or being a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, opium, or cocaine, or other drugs or derivatives of a similar nature;

- (3) Practicing the profession of social work while impaired by alcohol, drugs, or mental instability;
- (4) Procuring a social work license through fraud, misrepresentation, or deceit;
- (5) Aiding and abetting an unlicensed person to directly or indirectly use the title "social worker" or "licensed social worker";
- (6) Engaging in professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of social work;
- (7) Engaging in conduct or practice contrary to recognized standards of ethics for the social work profession;
- (8) Failing to comply, observe, or adhere to any law in a manner such that the director deems the applicant or holder to be an unfit or improper person to hold a social work license;
- (9) Revocation, suspension, or other disciplinary action by another state or federal agency against a licensee or applicant for any reason provided by this section;
- (10) Having a criminal conviction, whether by nolo contendere or otherwise, of a crime directly related to the qualifications, functions, or duties of the social work profession;
- (11) Failing to report in writing to the director any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days of the disciplinary decision;
- (12) Employing, utilizing, or attempting to employ or utilize at any time any person not licensed under this chapter who purports to be a social worker or licensed social worker; or
- (13) Violating this chapter or any rules adopted pursuant thereto.

(b) Any licensee who violates this section may also be fined not more than \$1,000 per violation.

(c) After a hearing pursuant to chapter 91, any exempt government employee who violates this section may be fined not more than \$1,000 per violation.

(d) The department shall have the authority to investigate, prosecute, and conduct administrative hearings regarding exempt government employees.

§ **-13 Prohibited acts; penalties.** (a) No person shall:

- (1) Use in connection with the person's name any designation tending to imply that the person is a licensed social worker unless the person is duly licensed and authorized under this chapter; or
- (2) Represent oneself as a licensed social worker during the time the person's license issued under this chapter is forfeited, terminated, suspended, or revoked.

(b) Any person who violates this section shall be subject to a fine of not more than \$1,000 and each day's violation shall be deemed a separate offense.

§ **-14 Consumer right of action.** Any person who suffers damage as a result of a violation of this chapter shall be entitled to injunctive relief restraining further violations and may sue to recover damages in any circuit court of the State, and, if successful, shall recover three times the actual damages or \$1,000, whichever is greater. In any action brought under this chapter, the prevailing party shall be entitled to the recovery of costs of suits, including reasonable attorney's fees."

## ACT 252

SECTION 3. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) The following chapters are hereby repealed effective December 31, 2000:

- (1) Chapter 439 (Board of Cosmetology)
- (2) Chapter 448F (Electrologists)
- (3) Chapter 454 (Mortgage Brokers and Solicitors)
- (4) Chapter 454D (Real Estate Collection Servicing Agents)
- (5) Chapter 466 (Board of Public Accountancy)
- (6) Chapter 467 (Real Estate Commission)
- (7) Chapter \_\_\_\_\_ (Social Workers)”

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$26,000, or so much thereof as may be necessary for fiscal year 1994-1995, to implement the social worker licensing program established by this Act. The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval; provided that sections -5 to -14 of section 2 of this Act shall take effect on July 1, 1995; and provided further that section 4 shall take effect on July 1, 1994.

(Approved June 29, 1994.)

## ACT 252

H.B. NO. 2500

A Bill for an Act Relating to the State Budget.

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

SECTION 1. This Act shall be known and may be cited as the Supplemental Appropriations Act of 1994.

SECTION 2. This Act amends Act 289, Session Laws of Hawaii 1993, and other appropriations and authorizations effective during fiscal biennium 1993-1995.

SECTION 3. Act 289, Session Laws of Hawaii 1993, is amended by amending section 3 to read as follows:

“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 means of financing specified to the expending agencies designated for the fiscal biennium beginning July 1, 1993, and ending June 30, 1995. 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.

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>A. ECONOMIC DEVELOPMENT</b>							
1.	BED102	COMMERCE AND INDUSTRY					
	OPERATING		BED	44.00 *		44.00 *	
			BED	13,849,863 A		12,663,003 A	
			BED	946,620 B		1,288,957 B	
			BED	220,700 U		123,192 U	
	INVESTMENT CAPITAL		BED	4,100,000 W		4,250,000 W	
			BED	6,500,000 C			
2.	BED113	STATE TOURISM OFFICE					
	OPERATING		BED	5.00 *		5.00 *	
			BED	29,999,865 A		34,892,660 A	
	INVESTMENT CAPITAL		BED			1,000,000 B	
						350,000,000 B	
3.	BED107	FOREIGN TRADE					
	OPERATING		BED	24.00 *		24.00 *	
				1,823,473 B		1,723,473 B	
4.	AGR101	FINANCIAL ASSISTANCE FOR AGRICULTURE					
	OPERATING		AGR	1,000,000 A			
			AGR	15.00 *		15.00 *	
			AGR	998,080 B		998,080 B	
			AGR	78,000 T		78,000 T	
			AGR	4,100,000 W		3,100,000 W	
5.	AGR122	PLANT PEST AND DISEASE CONTROL					
	OPERATING		AGR	104.00 *		104.00 *	
			AGR	4,268,019 A		4,219,621 A	
			AGR	209,900 N		274,048 N	
			AGR	295,000 T		310,000 T	
			AGR	283,600 U		283,600 U	
6.	AGR131	ANIMAL QUARANTINE					
	OPERATING		AGR	63.00 *		63.00 *	
			AGR	2,293,375 A		2,293,375 A	
	INVESTMENT CAPITAL		AGS	237,857 U		237,857 U	
						450,000 C	
7.	AGR132	ANIMAL DISEASE CONTROL					
	OPERATING		AGR	24.50 *		24.50 *	
			AGR	1,147,589 A		1,146,030 A	
			AGR	54,230 T		54,230 T	
	INVESTMENT CAPITAL		AGS	100,000 C		60,000 C	
8.	LNR172	FORESTRY - PRODUCTS DEVELOPMENT					
	OPERATING		LNR	28.50 *		28.50 *	
			LNR	1,191,461 A		1,184,911 A	
				124,505 N		124,505 N	
9.	AGR151	MARKETING INFO & DISTRIBUTION SYSTEMS IMPROVEMENT FOR AGR					
	OPERATING		AGR	67.00 *		67.00 *	
			AGR	3,558,899 A		3,662,514 A	
			AGR	405,699 N		399,699 N	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
			AGR	310,000	T	337,000	T
			AGR	509,842	W	509,842	W
10.	AGR141	AGRICULTURAL RESOURCE MANAGEMENT		26.00	*	26.00	*
	OPERATING		AGR	403,442	A	403,317	A
			AGR	172,062	B	205,062	B
	INVESTMENT CAPITAL		AGR	625,226	W	668,693	W
			AGR	500,000	C	12,000	C
			AGR			80,000	W
11.	AGR192	GENERAL ADMINISTRATION FOR AGR		39.00	*	39.00	*
	OPERATING		AGR	1,740,442	A	1,670,844	A
	INVESTMENT CAPITAL		AGR			1,845,000	C
			AGR			2,600,000	N
			AGS	350,000	C		
12.	AGR102	FINANCIAL ASSISTANCE FOR AQUACULTURE					
	OPERATING		AGR	80,000	W	80,000	W
13.	LNR153	COMMERCIAL FISHERIES AND AQUACULTURE		22.00	*	22.00	*
	OPERATING		LNR	1,978,449	A	1,940,948	A
			LNR	268,210	N	268,210	N
	INVESTMENT CAPITAL		LNR			800,000	C
14.	BED120	ENERGY DEVELOPMENT AND MANAGEMENT		9.00	*	9.00	*
	OPERATING		BED	3,086,342	A	3,778,573	A
			BED	759,000	B		
	INVESTMENT CAPITAL		BED	3,460,010	N	3,144,904	N
			BED	350,000	B		
			BED	3,850,000	C	2,000,000	C
			BED			7,800,000	E
			BED	9,000,000	N		
			BED	5,000,000	R		
15.	LNR141	WATER AND LAND DEVELOPMENT		7.00	*	7.00	*
	OPERATING		LNR	954,552	A	946,671	A
			LNR	110,000	W	110,000	W
	INVESTMENT CAPITAL		LNR	1,150,000	C	595,000	C
16.	BED130	ECON PLANNING & RESEARCH FOR ECON DEVELOPMENT		13.00	*	13.00	*
	OPERATING		BED	683,886	A	683,886	A
17.	BED142	GENERAL SUPPORT FOR ECONOMIC DEVELOPMENT		44.00	*	44.00	*
	OPERATING		BED	3,215,066	A	2,980,682	A
			BED	338,000	B	338,000	B

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>B. EMPLOYMENT</b>							
1.	LBR111 -	PLACEMENT SERVICES					
	OPERATING		LBR	3.00 *		3.00 *	
			LBR	349,189 A		287,299 A	
			LBR	482,119 B		485,890 B	
			LBR	132.50 *		132.50 *	
			LBR	13,801,239 N		13,833,706 N	
			LBR	1,015,953 U		992,263 U	
2.	LBR123 -	APPRENTICESHIP & OTHER TRAINING PROGRAMS					
	OPERATING		LBR	7.00 *		7.00 *	
				237,201 A		248,509 A	
3.	LBR131 -	EMPLOYMENT AND TRAINING PROGRAMS					
	OPERATING		LBR	4.00 *		3.00 *	
			LBR	632,726 A		611,147 A	
			LBR	3,422,940 B		3,551,920 B	
			LBR	8.00 *		8.00 *	
			LBR	15,040,821 N		15,612,480 N	
4.	LBR135 -	COMMISSION ON EMPLOYMENT & HUMAN RESOURCES					
	OPERATING		LBR	5.00 *		5.00 *	
			LBR	237,964 A		237,864 A	
			LBR	205,814 N		205,814 N	
5.	LBR136 -	SCHOOL TO WORK TRANSITION CENTER PROGRAM					
	OPERATING		LBR	1,551,577 A		1,501,355 A	
6.	LBR143 -	OCCUPATIONAL SAFETY & HEALTH					
	OPERATING		LBR	55.50 *		55.00 *	
			LBR	1,918,332 A		1,923,972 A	
			LBR	28.50 *		28.50 *	
			LBR	1,393,002 N		1,405,959 N	
7.	LBR152 -	WAGE STANDARDS & FAIR EMPLOYMENT PRACTICES					
	OPERATING		LBR	33.35 *		33.35 *	
				1,166,564 A		1,165,064 A	
8.	LBR153 -	CIVIL RIGHTS COMMISSION					
	OPERATING		LBR	27.20 *		27.20 *	
			LBR	1,237,122 A		1,232,867 A	
			LBR	149,308 N		151,309 N	
9.	LBR161 -	PUBLIC AND PRIVATE EMPLOYMENT					
	OPERATING		LBR	3.00 *		3.00 *	
				540,238 A		575,042 A	
10.	LBR171 -	UNEMPLOYMENT COMPENSATION					
	OPERATING		LBR	4,700,000 A		4,800,000 A	
			LBR	136,573,763 B		151,822,020 B	
			LBR	243.90 *		243.90 *	
			LBR	10,896,907 N		10,995,528 N	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
11.	LBR183 -	DISABILITY COMPENSATION					
	OPERATING		LBR	135.30 *		135.30 *	
			LBR	4,274,454 A		4,241,024 A	
			LBR	17,055,000 B		17,055,000 B	
12.	HMS802 -	VOCATIONAL REHABILITATION					
	OPERATING		HMS	33.09 *		29.31 *	
			HMS	4,247,344 A		4,325,013 A	
			HMS	773,814 B		773,814 B	
			HMS	95.91 *		99.69 *	
			HMS	5,054,732 N		7,244,956 N	
13.	LBR901 -	DLIR-DATA GATHERING, RESEARCH AND ANALYSIS					
	OPERATING		LBR	17.84 *		17.84 *	
			LBR	1,388,443 A		1,382,119 A	
			LBR	28.08 *		28.08 *	
			LBR	1,688,122 N		1,689,317 N	
14.	LBR902 -	GENERAL ADMINISTRATION					
	OPERATING		LBR	34.88 *		34.88 *	
			LBR	1,481,014 A		1,478,714 A	
			LBR	33.64 *		33.64 *	
			LBR	1,962,151 N		1,987,538 N	
15.	LBR903 -	OFFICE OF COMMUNITY SERVICES					
	OPERATING		LBR	6.00 *		8.00 *	
			LBR	8,272,316 A		8,837,033 A	
			LBR	3.00 *		3.00 *	
	INVESTMENT CAPITAL		LBR	5,047,112 N		5,141,222 N	
			LBR	3,839,000 C		2,000,000 C	
16.	LBR812 -	LABOR & INDUSTRIAL RELATIONS APPEALS BOARD					
	OPERATING		LBR	11.00 *		12.00 *	
			LBR	580,404 A		637,566 A	

C. TRANSPORTATION FACILITIES

1.	TRN102 -	HONOLULU INTERNATIONAL AIRPORT					
	OPERATING		TRN	635.00 *		653.75 *	
	INVESTMENT CAPITAL		TRN	62,348,436 B		67,143,665 B	
			TRN	11,918,000 B		13,050,000 B	
			TRN	111,323,000 E		42,649,000 E	
			TRN	7,600,000 N		6,000,000 N	
2.	TRN104 -	GENERAL AVIATION					
	OPERATING		TRN	3.00 *		3.00 *	
			TRN	633,407 B		777,801 B	
3.	TRN111 -	HILO INTERNATIONAL AIRPORT					
	OPERATING		TRN	86.00 *		86.00 *	
	INVESTMENT CAPITAL		TRN	7,223,353 B		7,538,545 B	
			TRN	5,510,000 B			
			TRN			3,496,000 E	
			TRN	500,000 N			

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
4.	TRN114 - KE-AHOLE AIRPORT						
	OPERATING		TRN	83.00 *		83.00 *	
	INVESTMENT CAPITAL		TRN	7,333,877 B		8,538,134 B	
			TRN	314,000 B		1,020,000 B	
			TRN			43,031,000 E	
			TRN			100,000 N	
5.	TRN116 - WAIMEA-KOHALA AIRPORT						
	OPERATING		TRN	2.00 *		2.00 *	
				110,473 B		112,033 B	
6.	TRN118 - UPOLU AIRPORT						
	OPERATING		TRN				
				67,890 B		7,160 B	
7.	TRN131 - KAHULUI AIRPORT						
	OPERATING		TRN	184.00 *		185.00 *	
	INVESTMENT CAPITAL		TRN	14,017,875 B		13,660,114 B	
			TRN	21,739,000 B		26,588,000 B	
			TRN	17,945,000 E		27,148,000 E	
			TRN	3,500,000 N		6,000,000 N	
8.	TRN133 - HANA AIRPORT						
	OPERATING		TRN	2.00 *		2.00 *	
				194,892 B		389,450 B	
9.	TRN135 - KAPALUA AIRPORT						
	OPERATING		TRN	6.00 *		6.00 *	
				1,019,887 B		868,210 B	
10.	TRN141 - MOLOKAI AIRPORT						
	OPERATING		TRN	25.00 *		25.00 *	
				2,011,197 B		2,627,941 B	
11.	TRN143 - KALAUPAPA AIRPORT						
	OPERATING		TRN	1.00 *		1.00 *	
				106,863 B		60,377 B	
12.	TRN151 - LANAI AIRPORT						
	OPERATING		TRN	10.00 *		10.00 *	
				531,561 B		1,409,738 B	
13.	TRN161 - LIHUE AIRPORT						
	OPERATING		TRN	118.00 *		118.00 *	
	INVESTMENT CAPITAL		TRN	9,132,838 B		9,927,270 B	
			TRN	15,415,000 B			
			TRN			3,500,000 E	
			TRN	2,100,000 N			
14.	TRN163 - PORT ALLEN AIRPORT						
	OPERATING		TRN				
				1,711 B		1,779 B	
15.	TRN195 - AIRPORTS ADMINISTRATION						
	OPERATING		TRN	178,354 A		178,354 A	
				105.00 *		107.00 *	
			TRN	156,426,040 B		164,242,881 B	
	INVESTMENT CAPITAL		TRN	17,820,000 E		9,655,000 E	
			TRN	600,000 N		100,000 N	



PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
16.	TRN301	HONOLULU HARBOR					
	OPERATING		TRN	107.00 *		107.00 *	
	INVESTMENT CAPITAL		TRN	11,044,176 B		10,855,193 B	
			TRN	200,000 B		850,000 B	
			TRN	23,000,000 E			
17.	TRN303	BARBERS POINT HARBOR					
	OPERATING		TRN	3.00 *		3.00 *	
	INVESTMENT CAPITAL		TRN	370,740 B		387,484 B	
			TRN			1,000,000 B	
			TRN	30,000,000 E			
18.	TRN305	KEWALO BASIN					
	OPERATING		TRN	3.00 *		3.00 *	
				530,397 B		560,336 B	
19.	TRN311	HILO HARBOR					
	OPERATING		TRN	10.00 *		10.00 *	
	INVESTMENT CAPITAL		TRN	1,239,014 B		1,197,466 B	
			TRN	100,000 B			
			TRN			750,000 E	
20.	TRN313	KAWAIHAE HARBOR					
	OPERATING		TRN	7.00 *		7.00 *	
	INVESTMENT CAPITAL		TRN	627,737 B		610,078 B	
			TRN	300,000 B			
21.	TRN331	KAHULUI HARBOR					
	OPERATING		TRN	15.00 *		15.00 *	
	INVESTMENT CAPITAL		TRN	1,505,433 B		1,435,697 B	
			TRN	500,000 B		400,000 B	
			TRN	6,300,000 E		3,500,000 E	
22.	TRN341	KAUNAKAKAI HARBOR					
	OPERATING		TRN	1.00 *		1.00 *	
	INVESTMENT CAPITAL		TRN	177,823 B		179,494 B	
			TRN	50,000 B		300,000 B	
23.	TRN361	NAWILIWILI HARBOR					
	OPERATING		TRN	12.50 *		13.00 *	
	INVESTMENT CAPITAL		TRN	976,415 B		940,219 B	
			TRN	13,000,000 E		5,000,000 E	
24.	TRN363	PORT ALLEN HARBOR					
	OPERATING		TRN	1.00 *		1.00 *	
	INVESTMENT CAPITAL		TRN	338,344 B		309,056 B	
			TRN	1,300,000 E			
25.	TRN351	KAUMALAPAU HARBOR					
	OPERATING		TRN	1.00 *		1.00 *	
	INVESTMENT CAPITAL		TRN	146,847 B		150,428 B	
			TRN	351,000 B			
			TRN			1,000,000 E	
			TRN	500,000 N			
26.	TRN395	HARBORS ADMINISTRATION					
				58.00 *		58.00 *	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		OPERATING	TRN	24,166,220	B	31,214,769	B
		INVESTMENT CAPITAL	TRN	1,145,000	B	755,000	B
27.	TRN501 - OAHU HIGHWAYS			272.00	*	272.00	*
		OPERATING	TRN	36,745,410	B	38,576,788	B
		INVESTMENT CAPITAL	TRN	810,000	B	8,856,000	B
			TRN	16,514,000	E	51,803,000	E
			TRN	3,393,000	J	5,742,000	J
			TRN	2,027,000	N	235,136,000	N
28.	TRN511 - HAWAII HIGHWAYS			127.00	*	127.00	*
		OPERATING	TRN	17,202,012	B	18,820,894	B
		INVESTMENT CAPITAL	TRN			10,000,000	B
			TRN	11,247,000	E	32,628,000	E
			TRN	66,000	N	4,110,000	N
29.	TRN531 - MAUI HIGHWAYS			77.00	*	77.00	*
		OPERATING	TRN	12,464,685	B	12,084,045	B
		INVESTMENT CAPITAL	TRN	1,020,000	B	27,625,000	B
			TRN	24,654,000	E	3,852,000	E
			TRN	10,817,000	N	68,000	N
30.	TRN541 - MOLOKAI HIGHWAYS			12.00	*	12.00	*
		OPERATING	TRN	2,256,891	B	2,314,334	B
		INVESTMENT CAPITAL	TRN	100,000	B		
			TRN	26,000	E	138,000	E
			TRN	34,000	N	462,000	N
31.	TRN551 - LANAI HIGHWAYS			3.00	*	3.00	*
		OPERATING	TRN	698,546	B	696,922	B
32.	TRN561 - KAUAI HIGHWAYS			50.00	*	50.00	*
		OPERATING	TRN	5,736,741	B	5,977,148	B
		INVESTMENT CAPITAL	TRN			37,845,000	B
			TRN	1,700,000	E	446,000	E
			TRN			1,654,000	N
33.	TRN595 - HIGHWAYS ADMINISTRATION			64.00	*	65.00	*
		OPERATING	TRN	46,660,545	B	49,596,116	B
		INVESTMENT CAPITAL	TRN			126,612	N
			TRN	4,771,000	E	5,421,000	E
			TRN	9,193,000	N	8,793,000	N
34.	TRN597 - HIGHWAY SAFETY			40.00	*	40.00	*
		OPERATING	TRN	5,070,427	B	5,213,116	B
			TRN	4.00	*	4.00	*
			TRN	352,652	N	256,055	N
35.	TRN995 - GENERAL ADMINISTRATION			102.00	*	106.00	*
		OPERATING	TRN	10,486,266	B	10,092,466	B

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 1993-94	FISCAL YEAR 1994-95
<b>D. ENVIRONMENTAL PROTECTION</b>					
1.	HTH840 - ENVIRONMENTAL MANAGEMENT				
	OPERATING		HTH	95.00 * 3,868,399 A	98.00 * 3,983,697 A
			HTH	85,000 B	12.00 * 2,285,000 B
			HTH	38.00 *	38.00 *
	INVESTMENT CAPITAL		HTH	3,805,339 N	3,805,339 N
			HTH	3,900,000 C	
2.	AGR846 - PESTICIDES				
	OPERATING		AGR	25.00 * 781,666 A	25.00 * 781,014 A
			AGR	396,800 N	500,000 N
3.	LNR401 - AQUATIC RESOURCES				
	OPERATING		LNR	26.00 * 1,284,786 A	26.00 * 1,270,131 A
			LNR	433,935 N	402,459 N
4.	LNR402 - FORESTS AND WILDLIFE RESOURCES				
	OPERATING		LNR	65.50 * 2,879,852 A	65.50 * 2,783,740 A
			LNR	.50 *	.50 *
	INVESTMENT CAPITAL		LNR	555,550 N	555,550 N
			LNR		60,000 B
			LNR		205,000 C
5.	LNR403 - MINERAL RESOURCES				
	OPERATING		LNR	3.00 * 277,214 A	3.00 * 258,896 A
6.	LNR404 - WATER RESOURCES				
	OPERATING		LNR	18.00 * 1,728,368 A	18.00 * 1,721,268 A
7.	LNR405 - CONSERVATION & RESOURCES ENFORCEMENT				
	OPERATING		LNR	80.00 * 3,904,203 A	80.00 * 3,909,385 A
			LNR	377,703 N	392,703 N
			LNR	1.00 *	1.00 *
	INVESTMENT CAPITAL		LNR	7,824 W	7,824 W
			LNR	120,000 C	
8.	LNR406 - COASTAL AREAS				
	OPERATING		LNR	15,000 A	15,000 A
9.	LNR407 - NATURAL AREA RESERVES & MANAGEMENT				
	OPERATING		LNR	14.00 * 2,036,161 A	14.00 * 1,635,111 A
			LNR		1,500,000 B
			LNR	110,000 N	110,000 N
10.	HTH850 - POLICY DVLPMENT,COORD & ANLYS FOR NAT P ENVR				
				7.00 *	7.00 *

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		OPERATING	HTH	291,336 A		291,336 A	
11.	LNR906	LNR-NATURAL PHYSICAL ENVIRONMENT					
		OPERATING	LNR	45.00 *		46.00 *	
			LNR	2,118,534 A		2,267,534 A	
						235,000 B	
12.	HTH849	ENVIRONMENTAL HEALTH ADMINISTRATION					
		OPERATING	HTH	17.50 *		17.50 *	
			HTH	963,616 A		1,112,468 A	
			HTH	12.50 *		16.50 *	
			HTH	1,788,650 N		2,265,740 N	
			HTH			4.00 *	
						368,491 W	
<b>E. HEALTH</b>							
1.	HTH101	TUBERCULOSIS/HANSEN'S DISEASE CONTROL					
		OPERATING	HTH	47.00 *		47.00 *	
			HTH	2,255,514 A		2,250,014 A	
			HTH	3.00 *		3.00 *	
			HTH	985,971 N		985,971 N	
2.	HTH111	HANSEN'S DISEASE INSTITUTIONAL SERVICES					
		OPERATING	HTH	71.00 *		71.00 *	
		INVESTMENT CAPITAL	AGS	4,181,129 A		4,390,686 A	
				777,000 C			
3.	HTH121	STD/AIDS PREVENTION SERVICES					
		OPERATING	HTH	15.00 *		15.00 *	
			HTH	6,044,594 A		6,079,011 A	
			HTH	4.00 *		4.00 *	
			HTH	2,206,116 N		2,206,116 N	
4.	HTH131	EPIDEMIOLOGY SERVICES					
		OPERATING	HTH	15.00 *		15.00 *	
			HTH	2,024,800 A		2,012,734 A	
			HTH	1.00 *		1.00 *	
			HTH	870,592 N		1,562,334 N	
5.	HTH141	DENTAL DISEASES					
		OPERATING	HTH	37.60 *		37.60 *	
			HTH	1,322,875 A		1,456,872 A	
6.	HTH151	PREVENTIVE HEALTH SERVICES					
		OPERATING	HTH	6.00 *		5.00 *	
			HTH	1,388,733 A		1,304,638 A	
			HTH	295,161 N		295,161 N	
7.	HTH160	NUTRITION					
		OPERATING	HTH	8.00 *		8.00 *	
			HTH	424,989 A		424,685 A	
			HTH	112.50 *		118.50 *	
			HTH	24,590,777 N		29,272,857 N	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
8.	HTH180	HEALTH EDUCATION & INJURY PREVENTION					
	OPERATING		HTH	29.00 *		29.00 *	
			HTH	1,383,775 A		1,381,278 A	
				3.00 *		3.00 *	
			HTH	640,304 N		648,594 N	
9.	HTH195	HPDP ADMINISTRATION					
	OPERATING		HTH	15.00 *		15.00 *	
			HTH	704,425 A		672,895 A	
				66,723 N		66,723 N	
10.	HTH211	HILO HOSPITAL					
	OPERATING		HTH	772.00 *		800.00 *	
				52,716,814 B		57,919,620 B	
11.	HTH212	HONOKAA HOSPITAL					
	OPERATING		HTH	445,833 A		335,833 A	
				50.00 *		87.00 *	
	INVESTMENT CAPITAL		HTH	3,443,556 B		5,005,377 B	
			AGS	6,701,000 C			
12.	HTH213	KA'U HOSPITAL					
	OPERATING		HTH	480,544 A		479,591 A	
				33.00 *		33.00 *	
			HTH	1,832,347 B		1,964,478 B	
13.	HTH214	KOHALA HOSPITAL					
	OPERATING		HTH	621,183 A		619,919 A	
				43.00 *		44.00 *	
	INVESTMENT CAPITAL		HTH	1,923,849 B		2,116,378 B	
			AGS	222,000 C		110,000 C	
14.	HTH215	KONA HOSPITAL					
	OPERATING		HTH	5,245,414 A		3,240,454 A	
				317.25 *		348.25 *	
	INVESTMENT CAPITAL		HTH	16,529,219 B		22,416,876 B	
			AGS	7,020,000 C			
15.	HTH221	MAUI MEMORIAL HOSPITAL					
	OPERATING		HTH	635.50 *		673.00 *	
	INVESTMENT CAPITAL		AGS	52,378,158 B		69,694,822 B	
				971,000 C			
16.	HTH222	HANA MEDICAL CENTER					
	OPERATING		HTH	223,920 A		223,699 A	
				9.50 *		9.50 *	
			HTH	554,946 B		987,792 B	
17.	HTH223	KULA HOSPITAL					
	OPERATING		HTH	1,188,338 A		1,179,071 A	
				184.00 *		184.00 *	
	INVESTMENT CAPITAL		HTH	9,103,670 B		9,135,707 B	
			AGS	400,000 C			
18.	HTH224	LANAI COMMUNITY HOSPITAL					
	OPERATING		HTH	375,607 A		373,607 A	
				28.00 *		28.00 *	
			HTH	1,822,771 B		1,824,771 B	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
19.	HTH231 - KAUAI VETERANS MEMORIAL HOSPITAL	OPERATING	HTH	3,233,382 A		3,233,382 A	
				150.50 *		150.50 *	
			HTH AGS	6,898,309 B 60,000 C		7,182,309 B	
20.	HTH232 - SAMUEL MAHELONA MEMORIAL HOSPITAL	OPERATING	HTH	2,370,521 A		2,366,641 A	
				154.50 *		154.50 *	
			HTH AGS	4,741,649 B 209,000 C		4,745,529 B	
21.	HTH241 - MALUHIA HOSPITAL	OPERATING	HTH	4,685,420 A		3,184,285 A	
				194.00 *		194.00 *	
			HTH	8,913,413 B		10,515,737 B	
			HTH AGS	532,595 N 300,000 C		532,595 N	
22.	HTH242 - LEAHI HOSPITAL	OPERATING	HTH	4,117,002 A		4,103,152 A	
				311.00 *		311.00 *	
			HTH AGS	11,042,203 B		11,304,064 B 151,000 B	
23.	SUB601 - PRIVATE HOSPITALS & MEDICAL SERVICES	OPERATING	SUB	2,401,820 A		2,711,820 A	
			HTH	1,050,000 C		2,000,000 C	
24.	HTH295 - COMMUNITY HOSPITALS ADMINISTRATION	OPERATING	HTH	2,076,204 A		415,110 A	
				40.00 *		40.00 *	
			HTH	2,698,473 B		3,782,338 B	
25.	HTH420 - ADULT MENTAL HEALTH	OPERATING		937.50 *		938.00 *	
			HTH	45,916,007 A		45,173,610 A	
			HTH	584,981 B		584,981 B	
			HTH AGS	1,098,556 N		1,098,556 N 1,310,000 C	
26.	HTH440 - ALCOHOL & DRUG ABUSE	OPERATING		9.50 *		9.50 *	
			HTH	6,524,446 A		6,524,362 A	
				2.00 *		2.00 *	
	INVESTMENT CAPITAL	HTH	4,597,242 N		5,286,185 N		
		HTH	1,989,000 C				
27.	HTH460 - CHILD & ADOLESCENT MENTAL HEALTH	OPERATING		188.00 *		186.00 *	
			HTH	20,377,994 A		24,423,018 A	
			HTH	400,000 B		2,576,353 B	
			HTH	381,900 N		381,900 N	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
28.	HTH495	BEHAVIORAL HEALTH SERVICES ADMINISTRATION					
	OPERATING		HTH	87.00 *		86.00 *	
			HTH	5,866,489 A		5,821,488 A	
				4.00 *		4.00 *	
			HTH	2,359,436 N		2,446,215 N	
29.	HTH501	DEVELOPMENTAL DISABILITIES					
	OPERATING		HTH	515.25 *		508.75 *	
	INVESTMENT CAPITAL		AGS	30,744,532 A		29,912,505 A	
						520,000 C	
30.	HTH511	WAIMANO TRAINING SCHOOL AND HOSPITAL					
31.	HTH530	FAMILY HEALTH SERVICES					
	OPERATING		HTH	106.00 *		110.00 *	
			HTH	18,051,727 A		19,476,874 A	
			HTH	60.00 *		63.00 *	
			HTH	5,658,609 N		5,703,169 N	
			HTH			1,100,000 U	
32.	HTH540	SCHOOL HEALTH SERVICES					
	OPERATING		HTH	385.00 *		384.00 *	
			HTH	10,033,068 A		10,649,184 A	
			HTH	2.00 *		2.00 *	
			HTH	205,638 N		205,638 N	
33.	HTH570	COMMUNITY HEALTH NURSING					
	OPERATING		HTH	172.00 *		172.00 *	
			HTH	7,190,553 A		7,186,658 A	
			HTH	1.00 *		1.00 *	
			HTH	29,675 N		29,675 N	
34.	HTH595	PERSONAL HEALTH SERVICES ADMINISTRATION					
	OPERATING		HTH	36.00 *		36.00 *	
			HTH	3,512,076 A		3,668,270 A	
						292,579 B	
			HTH	2.00 *		2.00 *	
			HTH	116,801 N		245,826 N	
35.	HTH610	ENVIRONMENTAL HEALTH SERVICES					
	OPERATING		HTH	200.00 *		200.00 *	
			HTH	6,177,297 A		6,167,940 A	
			HTH	2.00 *		2.00 *	
	INVESTMENT CAPITAL		AGS	56,745 X		56,745 X	
				1,000,000 C			
36.	HTH710	STATE LABORATORY SERVICES					
	OPERATING		HTH	91.00 *		92.00 *	
			HTH	3,884,856 A		4,900,269 A	
37.	HTH720	MED FACILITIES - STDS, INSPECTION, LICENSING					
	OPERATING		HTH	18.40 *		18.40 *	
			HTH	962,266 A		953,006 A	
			HTH	18.60 *		18.60 *	
			HTH	1,382,920 N		1,382,920 N	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
38.	HTH730	- EMERGENCY MEDICAL SERVICES					
	OPERATING		HTH	14.00 *		14.00 *	
			HTH	30,520,132 A		31,420,531 A	
				369,894 N		295,786 N	
39.	HTH760	- HEALTH STATUS MONITORING					
	OPERATING		HTH	35.00 *		35.00 *	
			HTH	1,722,069 A		1,721,190 A	
				124,139 N		124,139 N	
40.	HTH770	- STATE HEALTH INSURANCE					
	OPERATING		HTH	18.00 *			*
				13,419,208 A			A
41.	HTH795	- HEALTH RESOURCES ADMINISTRATION					
	OPERATING		HTH	21.00 *		20.00 *	
			HTH	1,430,097 A		1,428,797 A	
				53,375 N		57,675 N	
42.	HTH906	- COMPREHENSIVE HEALTH PLANNING					
	OPERATING		HTH	13.00 *		13.00 *	
				568,483 A		566,733 A	
43.	HTH907	- GENERAL ADMINISTRATION					
	OPERATING		HTH	131.00 *		132.00 *	
				6,230,569 A		6,153,277 A	
				7.00 *		7.00 *	
	INVESTMENT CAPITAL		HTH	472,975 N		502,500 N	
			AGS			300,000 C	
			HTH			100,000 C	
			HTH			100,000 R	
<b>F. SOCIAL SERVICES</b>							
1.	HMS301	- CHILD WELFARE SERVICES					
	OPERATING		HMS	180.33 *		187.49 *	
				16,027,136 A		16,102,242 A	
			HMS	182.67 *		183.51 *	
			HMS	8,017,929 N		8,048,718 N	
			HMS	600,000 U		369,801 U	
2.	HMS302	- CHILD DAY CARE SERVICES					
	OPERATING		HMS	32.00 *		32.00 *	
				3,274,355 A		3,274,355 A	
			HMS	1.00 *		1.00 *	
			HMS	2,790,950 N		1,786,635 N	
			HMS			2,434,830 U	
3.	HMS303	- CHILD FOSTER CARE SERVICES					
	OPERATING		HMS	28.17 *		29.17 *	
				14,931,052 A		15,565,405 A	
			HMS	5.83 *		5.83 *	
				1,126,261 N		935,821 N	
4.	HMS601	- COMMUNITY LONG TERM CARE SERVICES					
	OPERATING		HMS	74.00 *		74.00 *	
				10,666,189 A		10,685,876 A	



PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
			HMS	7,795,152	N	16,145,152	N
			HMS	148,886	U	207,454	U
5.	HMS501 -	YOUTH SERVICES ADMINISTRATION		19.00 *		19.00 *	
	OPERATING		HMS	1,254,984	A	1,299,743	A
			HMS	109,352	N		
6.	HMS502 -	YOUTH SERVICES PROGRAM		11.00 *		11.00 *	
	OPERATING		HMS	4,141,358	A	4,598,674	A
	INVESTMENT CAPITAL		HMS	220,154	N	220,154	N
			HMS	500,000	C	500,000	C
7.	HMS503 -	YOUTH RESIDENTIAL PROGRAMS		78.50 *		78.50 *	
	OPERATING		HMS	4,922,582	A	4,920,943	A
			HMS	1,541,015	N	1,541,015	N
8.	DEF112 -	SERVICES TO VETERANS		23.00 *		23.00 *	
	OPERATING		DEF	1,423,949	A	1,480,052	A
	INVESTMENT CAPITAL		AGS	1,500,000	C	450,000	C
			AGS	1,960,000	N		
9.	HMS201 -	PAYMNTS TO ASSIST FAMILIES WITH DEPNDNT CHLD					
	OPERATING		HMS	67,244,628	A	79,005,086	A
			HMS	67,244,628	N	79,005,086	N
10.	HMS202 -	PAYMNTS TO ASSIST THE AGED, BLIND & DISABLED					
	OPERATING		HMS	18,627,996	A	19,222,972	A
11.	HMS204 -	OTHER GENERAL ASSISTANCE PAYMENTS					
	OPERATING		HMS	38,013,192	A	42,889,464	A
12.	HMS206 -	OTHER FEDERAL ASSISTANCE PAYMENTS					
	OPERATING		HMS	1,491,331	N	1,491,331	N
13.	HMS220 -	RENTAL HOUSING SERVICES					
	OPERATING		HMS	997,000	A	1,101,085	A
				26.50 *		26.50 *	
			HMS	2,091,953	B	2,185,688	B
				214.00 *		202.00 *	
			HMS	19,205,551	N	19,760,457	N
14.	HMS807 -	TEACHER HOUSING					
	OPERATING		HMS	150,000	A	150,000	A
				.50 *		.50 *	
			HMS	225,133	B	234,813	B
15.	HMS229 -	HOUSING ASSISTANCE ADMINISTRATION					
	OPERATING		HMS	326,085	B	362,333	B
				37.00 *		37.00 *	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		INVESTMENT CAPITAL	HMS HMS	2,377,967	N	2,941,097	N 500,000 C
16.	BUF225	PRIVATE HOUSING DEVELOPMENT & OWNERSHIP OPERATING	BUF	362,417	A	19.00 *	19.00 *
		INVESTMENT CAPITAL	BUF BUF	3,732,672 1,000,000	B C	3,882,179	B
17.	BUF223	BROADENED HOMESITE OWNERSHIP OPERATING	BUF BUF	1.00 * 133,691	* A	3.00 *	* A
			BUF	304,872	B	447,281	B
18.	BUF227	HOUSING FINANCE OPERATING	BUF	8.00 * 1,065,605	* B	8.00 * 1,120,681	* B
19.	BUF229	HOUSING FINANCE & DEVELOPMENT ADMINISTRATION OPERATING	BUF BUF	468,910 22.00 *	A *	2,721,416	A *
			BUF	2,137,449	B	2,721,416	B
20.	HMS222	RENTAL ASSISTANCE SERVICES OPERATING	HMS HMS	10.00 * 3,370,621 8.00 *	* A *	10.00 * 3,370,621	* A *
			HMS	15,429,217	N	15,454,633	N
21.	HMS224	HOMELESS SERVICES OPERATING	HMS	4.00 * 4,966,531	* A	4.00 * 4,966,031	* A
22.	HMS230	HEALTH CARE PAYMENTS OPERATING	HMS HMS HMS	229,712,872 192,460,937 7,256,905	A N U	263,998,399 250,588,036 15,606,905	A N U
23.	HMS236	ELIGIBILITY DETERMINATION OPERATING	HMS HMS	333.99 * 10,977,464 252.51 *	* A *	333.99 * 10,760,719 252.51 *	* A *
			HMS	10,834,723	N	10,634,187	N
24.	HMS238	DISABILITY DETERMINATION OPERATING	HMS	36.00 * 2,831,510	* N	36.00 * 2,831,510	* N
25.	ATG500	CHILD SUPPORT ENFORCEMENT SERVICES OPERATING	ATG ATG ATG	66.13 * 1,999,153 99.87 *	* A *	65.45 * 1,977,281 98.55 *	* A *
			ATG	12,447,049	N	12,109,167	N
			ATG	2,561,860	T	2,005,662	T

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
26.	HMS701 - JOBS PROGRAM						
	OPERATING		HMS	56.50 *		56.50 *	
			HMS	8,326,047 A		9,212,951 A	
			HMS	56.50 *		56.50 *	
			HMS	5,317,532 N		6,236,201 N	
27.	HMS702 - FOOD STAMP EMPLOYMENT & TRAINING						
	OPERATING		HMS	2.25 *		1.50 *	
			HMS	745,201 A		723,493 A	
			HMS	.50 *		.50 *	
			HMS	755,630 N		755,630 N	
28.	HMS703 - GENERAL ASSISTANCE WORK PROGRAM						
	OPERATING		HMS	.90 *		.65 *	
			HMS	37,656 A		30,420 A	
			HMS	.35 *		.35 *	
29.	HHL602 - PLANNG, DEV, MGT & GEN SPPT FOR HAWN HMSTDS						
	OPERATING		HHL	87.00 *		87.00 *	
			HHL	3,251,162 A		3,251,162 A	
			HHL	55.00 *		55.00 *	
	INVESTMENT CAPITAL		HHL	2,632,822 B		2,701,850 B	
			HHL	13,880,000 C		256,000 C	
30.	GOV861 - PLAN, PRGM DEV & COORD OF SVCS FOR CHD & YTH						
	OPERATING		GOV	11.00 *		11.00 *	
			GOV	4,978,931 A		4,626,508 A	
			GOV	3.00 *		3.00 *	
			GOV	3,600,000 N		3,490,000 N	
31.	GOV602 - PLAN. PRGM DEV & COORD OF SVCS FOR ELDERLY						
	OPERATING		GOV	9.65 *		9.65 *	
			GOV	7,666,130 A		7,653,288 A	
			GOV	8.35 *		8.35 *	
			GOV	5,327,948 N		5,327,948 N	
32.	HTH520 - PLAN, PROG DEV & COORD OF SVS FOR HANDCPPD						
	OPERATING		HTH	6.00 *		6.00 *	
			HTH	724,763 A		716,163 A	
33.	HMS902 - GENERAL SUPPORT FOR HEALTH CARE PAYMENTS						
	OPERATING		HMS	20.39 *		38.92 *	
			HMS	2,236,201 A		9,123,032 A	
			HMS	24.61 *		25.08 *	
			HMS	2,586,366 N		9,002,754 N	
34.	HMS903 - GENERAL SUPPORT FOR PUBLIC WELFARE						
	OPERATING		HMS	65.66 *		63.01 *	
			HMS	5,197,171 A		5,207,118 A	
			HMS	57.34 *		54.99 *	
			HMS	5,082,454 N		4,991,446 N	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
35.	HMS904	GENERAL ADMINISTRATION (DSSH)					
	OPERATING		HMS	194.61 *		192.61 *	
				7,824,433 A		7,662,491 A	
			HMS	16.39 *		16.39 *	
	INVESTMENT CAPITAL		HMS	698,290 N		698,290 N	
			HMS			3,333,000 C	
<b>G. FORMAL EDUCATION</b>							
1.	EDN100	SCHOOL BASED BUDGETING					
	OPERATING		EDN	13,137.00 *		13,300.00 *	
			EDN	530,121,527 A		533,659,134 A	
			EDN	3,798,500 B		3,836,000 B	
			EDN	65,443,083 N		71,731,461 N	
			EDN	3,046,072 T		2,960,072 T	
			EDN	976,888 U		986,658 U	
	INVESTMENT CAPITAL		AGS	90,781,000 B		147,155,000 B	
			AGS	26,507,000 C		22,638,000 C	
2.	EDN200	INSTRUCTIONAL SUPPORT					
	OPERATING		EDN	407.50 *		407.50 *	
			EDN	24,889,538 A		24,921,633 A	
			EDN	2,414,224 N		2,467,035 N	
3.	EDN300	STATE AND DISTRICT ADMINISTRATION					
	OPERATING		EDN	566.50 *		566.50 *	
			EDN	35,757,884 A		35,807,884 A	
			EDN	1,168,139 N		1,259,544 N	
4.	EDN400	SCHOOL SUPPORT					
	OPERATING		EDN	1,382.60 *		1,400.60 *	
			EDN	70,692,039 A		72,785,272 A	
			EDN	720.50 *		720.50 *	
			EDN	17,490,530 B		16,924,213 B	
			EDN	3.00 *		3.00 *	
			EDN	17,761,297 N		18,113,134 N	
5.	EDN500	SCHOOL COMMUNITY SERVICE					
	OPERATING		EDN	39.50 *		39.50 *	
			EDN	25,672,508 A		25,840,460 A	
			EDN	566,286 B		653,642 B	
			EDN	976,109 N		976,109 N	
6.	AGS807	PHYSICAL PLANT OPERATIONS & MAINTENANCE-AGS					
	OPERATING		AGS	281.00 *		281.00 *	
			AGS	44,875,588 A		44,874,711 A	
7.	AGS808	STUDENT TRANSPORTATION					
	OPERATING		AGS	11.00 *		11.00 *	
			AGS	22,425,957 A		21,675,807 A	
8.	EDN407	PUBLIC LIBRARIES					
	OPERATING		EDN	614.05 *		615.05 *	
			EDN	22,962,741 A		23,186,219 A	
			EDN	1,475,000 B		1,625,000 B	
			EDN	1,250,000 N		660,763 N	
	INVESTMENT CAPITAL		AGS	12,200,000 C		1,142,000 C	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
9.	UOH100 - UNIVERSITY OF HAWAII, MANOA						
	OPERATING		UOH	3,629.34 *		3,642.34 *	
				221,198,036 A		225,208,669 A	
			UOH	58.75 *		58.75 *	
			UOH	16,547,024 B		16,547,139 B	
			UOH	82.06 *		82.06 *	
			UOH	5,556,024 N		5,619,667 N	
			UOH	119.25 *		121.25 *	
	INVESTMENT CAPITAL		UOH	43,758,167 W		45,580,200 W	
			AGS	2,873,000 B			
			AGS	9,132,000 C		1,024,000 C	
			AGS	10,000,000 N		1,191,000 N	
			UOH			5,000,000 E	
10.	UOH210 - UNIVERSITY OF HAWAII, HILO						
	OPERATING		UOH	324.00 *		324.00 *	
				21,267,537 A		21,046,021 A	
			UOH	15.00 *		15.00 *	
			UOH	2,193,704 B		2,296,560 B	
			UOH	394,543 N		394,543 N	
			UOH	6.00 *		6.00 *	
	INVESTMENT CAPITAL		UOH	2,902,165 W		3,385,041 W	
			AGS	3,370,000 C		750,000 C	
11.	UOH300 - HONOLULU COMMUNITY COLLEGE						
	OPERATING		UOH	284.00 *		284.00 *	
				14,500,297 A		14,470,465 A	
			UOH	5.00 *		5.00 *	
			UOH	1,752,113 B		1,773,710 B	
			UOH	111,000 N		111,000 N	
			UOH	14.00 *		14.00 *	
			UOH	1,101,497 W		1,193,280 W	
12.	UOH310 - KAPIOLANI COMMUNITY COLLEGE						
	OPERATING		UOH	299.60 *		299.60 *	
				15,744,116 A		16,021,502 A	
			UOH	18.00 *		18.00 *	
			UOH	3,028,311 B		3,078,272 B	
			UOH	91,020 N		91,020 N	
			UOH	6.00 *		6.00 *	
	INVESTMENT CAPITAL		UOH	1,158,905 W		1,200,174 W	
			AGS	3,162,000 C			
13.	UOH320 - LEEWARD COMMUNITY COLLEGE						
	OPERATING		UOH	299.00 *		300.00 *	
				14,568,659 A		14,643,119 A	
			UOH	10.00 *		10.00 *	
			UOH	1,644,959 B		1,666,966 B	
			UOH	125,000 N		125,000 N	
			UOH	4.00 *		4.00 *	
			UOH	726,675 W		737,598 W	
14.	UOH330 - WINDWARD COMMUNITY COLLEGE						
	OPERATING		UOH	103.40 *		103.40 *	
				4,874,431 A		4,870,845 A	
			UOH	470,598 B		485,331 B	
			UOH	19,907 N		19,907 N	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		INVESTMENT CAPITAL	UOH AGS	82,816 W 1,375,000 C		84,929 W 3,181,000 C	
15.	UOH400 -	HAWAII COMMUNITY COLLEGE					
	OPERATING		UOH	121.50 *		121.50 *	
			UOH	6,355,579 A		6,358,640 A	
			UOH	480,000 B		480,000 B	
			UOH	70,000 N		70,000 N	
			UOH	492,735 W		503,447 W	
16.	UOH500 -	MAUI COMMUNITY COLLEGE					
	OPERATING		UOH	156.00 *		156.00 *	
			UOH	8,284,855 A		8,296,855 A	
			UOH	6.50 *		6.50 *	
			UOH	1,232,906 B		1,249,743 B	
			UOH	88,000 N		88,000 N	
			UOH	3.00 *		3.00 *	
	INVESTMENT CAPITAL		UOH AGS	639,491 W		659,653 W 2,061,000 C	
17.	UOH600 -	KAUAI COMMUNITY COLLEGE					
	OPERATING		UOH	140.00 *		140.00 *	
			UOH	6,496,063 A		6,496,063 A	
			UOH	627,833 B		843,389 B	
			UOH	36,000 N		36,000 N	
			UOH	2.00 *		2.00 *	
	INVESTMENT CAPITAL		UOH AGS AGS	310,645 W 500,000 R		320,301 W 500,000 C	
18.	UOH700 -	UNIVERSITY OF HAWAII AT WEST OAHU					
	OPERATING		UOH	35.50 *		35.50 *	
			UOH	2,061,800 A		2,067,823 A	
			UOH	86,433 B		91,590 B	
			UOH	25,000 W		25,000 W	
19.	UOH900 -	UOH, SYSTEM WIDE SUPPORT					
	OPERATING		UOH	346.50 *		346.50 *	
			UOH	27,863,358 A		27,799,856 A	
			UOH	4.20 *		4.20 *	
			UOH	200,000 B		200,000 B	
			UOH	4.00 *		4.00 *	
			UOH	450,560 N		457,667 N	
			UOH	96.00 *		96.00 *	
	INVESTMENT CAPITAL		UOH AGS UOH	34,322,498 W 300,000 C		37,693,729 W 5,101,000 C 300,000 C	
20.	UOH906 -	COMMUNITY COLLEGE SYSTEMWIDE SUPPORT					
	OPERATING		UOH	66.75 *		66.75 *	
			UOH	7,713,566 A		7,875,629 A	
			UOH	10.00 *		10.00 *	
			UOH	1,057,089 B		1,070,872 B	
			UOH	19.60 *		19.60 *	
			UOH	2,078,912 N		3,000,000 N	
			UOH	139,040 W		149,950 W	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>H. CULTURE AND RECREATION</b>							
1.	UOH881 - AQUARIA						
	OPERATING		UOH	13.00 *		13.00 *	
				783,610 A		687,206 A	
				3.00 *		7.00 *	
			UOH	975,406 B		1,318,689 B	
2.	CCA701 - HAWAII PUBLIC BROADCASTING						
	OPERATING		CCA	46.00 *		46.00 *	
			CCA	2,555,050 A		2,539,468 A	
				2,697,148 W		3,642,720 W	
3.	AGS881 - PERFORMING & VISUAL ARTS EVENTS						
	OPERATING		AGS	19.00 *		17.00 *	
				6,450,071 A		6,410,159 A	
				1.00 *		3.00 *	
			AGS	2,050,249 B		2,226,000 B	
			AGS	571,489 N		571,489 N	
			AGS	15,000 R		15,000 R	
	INVESTMENT CAPITAL		AGS	400,000 C			
4.	AGS818 - ETHNIC GROUP PRESENTATIONS						
	OPERATING		AGS	1.00 *		1.00 *	
				97,008 A		97,008 A	
5.	LNR802 - HISTORIC PRESERVATION						
	OPERATING		LNR	18.00 *		18.00 *	
			LNR	1,798,465 A		1,284,965 A	
			LNR	75,000 B		75,000 B	
			LNR	419,487 N		419,487 N	
	INVESTMENT CAPITAL		LNR			200,000 B	
			LNR	1,070,000 C			
6.	LNR804 - FOREST RECREATION						
	OPERATING		LNR	49.00 *		49.00 *	
			LNR	1,809,434 A		1,904,884 A	
			LNR	576,506 N		645,506 N	
			LNR	150,000 W		150,000 W	
7.	LNR805 - RECREATIONAL FISHERIES						
	OPERATING		LNR	8.00 *		8.00 *	
			LNR	222,541 A		221,031 A	
			LNR			37,000 B	
			LNR	374,064 N		374,064 N	
8.	LNR806 - PARK DEVELOPMENT AND OPERATION						
	OPERATING		LNR	138.00 *		138.00 *	
			LNR	6,763,500 A		6,738,500 A	
	INVESTMENT CAPITAL		LNR	3,246,000 C		1,354,000 C	
			LNR			1,365,000 N	
9.	LNR801 - OCEAN-BASED RECREATION						
	OPERATING		LNR	82.00 *		88.00 *	
			LNR	9,529,640 B		10,808,847 B	
			LNR	500,000 N		500,000 N	
	INVESTMENT CAPITAL		LNR			207,000 B	
			LNR	906,000 C			
			LNR	2,384,000 N		623,000 N	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
10.	TRN801	- OCEAN-BASED RECREATION					
11.	AGS889	- SPECTATOR EVENTS & SHOWS - ALOHA STADIUM					
	OPERATING		AGS	40.00 *		40.00 *	
	INVESTMENT CAPITAL		AGS	5,443,510 B		4,903,510 B	
			AGS	3,621,000 B		2,250,000 B	
			AGS	22,000,000 C			
12.	LNR807	- PARK INTERPRETATION					
	OPERATING		LNR	3.00 *		3.00 *	
				1,019,310 B		1,019,310 B	
13.	LNR809	- PARKS ADMINISTRATION					
	OPERATING		LNR	15.00 *		14.00 *	
			LNR	671,551 A		639,280 A	
			LNR	285,201 N		285,201 N	
<b>I. PUBLIC SAFETY</b>							
1.	PSD402	- HALAWA CORRECTIONAL FACILITY					
	OPERATING		PSD	413.00 *		413.00 *	
			PSD	14,937,964 A		14,923,742 A	
	INVESTMENT CAPITAL		AGS	523,255 W		672,928 W	
				C			
2.	PSD403	- KULANI CORRECTIONAL FACILITY					
	OPERATING		PSD	87.50 *		87.50 *	
	INVESTMENT CAPITAL		AGS	3,561,004 A		3,440,722 A	
				C			
3.	PSD404	- WAIAWA CORRECTIONAL FACILITY					
	OPERATING		PSD	75.00 *		75.00 *	
			PSD	2,780,672 A		2,778,422 A	
			PSD	137,087 W		148,259 W	
4.	PSD405	- HAWAII COMMUNITY CORRECTIONAL CENTER					
	OPERATING		PSD	76.00 *		111.00 *	
	INVESTMENT CAPITAL		AGS	2,612,286 A		3,955,703 A	
				3,000,000 C		1,500,000 C	
5.	PSD406	- MAUI COMMUNITY CORRECTIONAL CENTER					
	OPERATING		PSD	189.00 *		203.00 *	
			PSD	4,209,905 A		6,593,831 A	
			PSD	46,000 S		35,000 S	
6.	PSD407	- OAHU COMMUNITY CORRECTIONAL CENTER					
	OPERATING		PSD	466.00 *		466.00 *	
			PSD	17,618,835 A		17,564,007 A	
			PSD	413,637 W		508,322 W	
7.	PSD408	- KAUAI COMMUNITY CORRECTIONAL CENTER					
	OPERATING		PSD	44.00 *		44.00 *	
	INVESTMENT CAPITAL		AGS	1,550,858 A		1,550,608 A	
				C		1,500,000 C	



PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
8.	PSD409	WOMEN'S COMMUNITY CORRECTIONAL CENTER					
	OPERATING		PSD	82.00 *		82.00 *	
				3,445,705 A		3,404,471 A	
9.	PSD410	INTAKE SERVICE CENTERS					
	OPERATING		PSD	40.00 *		40.00 *	
				1,658,747 A		1,655,247 A	
10.	PSD420	CORRECTION PROGRAM SERVICES					
	OPERATING		PSD	226.93 *		249.93 *	
				16,862,440 A		17,785,921 A	
11.	PSD501	PROTECTIVE SERVICES					
	OPERATING		PSD	92.50 *		95.50 *	
				3,038,185 A		4,036,000 A	
			PSD	13.00 *		13.00 *	
				1,250,848 U		1,268,851 U	
12.	PSD502	NARCOTICS ENFORCEMENT					
	OPERATING		PSD	12.00 *		12.00 *	
			PSD	480,196 A		479,821 A	
				76,000 N			
13.	PSD503	SPECIAL SERVICES					
	OPERATING		PSD	154.00 *		154.00 *	
				4,340,613 A		4,338,801 A	
14.	PSD504	HARBOR PATROL & MARINE PATROL SERVICES					
	OPERATING		PSD	29.00 *		29.00 *	
			PSD	707,165 A		707,165 A	
				215,078 N		215,078 N	
			PSD	46.00 *		46.00 *	
				1,979,978 U		1,993,618 U	
15.	PSD611	ADULT PAROLE DETERMINATIONS					
	OPERATING		PSD	2.00 *		2.00 *	
				176,100 A		175,230 A	
16.	PSD612	ADULT PAROLE SUPERVISION & COUNSELING					
	OPERATING		PSD	43.00 *		43.00 *	
			PSD	1,517,173 A		1,540,375 A	
				159,500 N		74,500 N	
17.	PSD613	CRIMINAL INJURIES COMPENSATION					
	OPERATING		PSD	7.00 *		7.00 *	
			PSD	270,521 A		267,306 A	
				276,000 U		276,000 U	
18.	PSD900	GENERAL ADMINISTRATION					
	OPERATING		PSD	172.10 *		171.10 *	
			PSD	9,179,456 A		8,991,462 A	
			PSD	367,250 N		158,000 N	
			PSD	25,065 T		25,065 T	
				9.00 *		9.00 *	
			PSD	2,500,000 W		6,250,000 W	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
			PSD	726,624	X	726,624	X
			AGS	250,000	C	450,000	C
19.	ATG231	- STATE CRIMINAL JUSTICE INFO & IDENTIFICATION		44.00	*	42.00	*
	OPERATING		ATG	1,825,303	A	1,947,307	A
20.	LNR810	- PREVENTION OF NATURAL DISASTERS		6.00	*	6.00	*
	OPERATING		LNR	310,859	A	309,609	A
			LNR	40,000	N	40,000	N
	INVESTMENT CAPITAL		LNR	420,000	C		
21.	DEF110	- AMELIORATION OF PHYSICAL DISASTERS		153.05	*	153.05	*
	OPERATING		DEF	7,357,169	A	7,360,334	A
				11.45	*	11.45	*
	INVESTMENT CAPITAL		DEF	1,757,097	N	1,842,568	N
			AGS	3,672,000	C	235,000	C
			AGS	4,867,000	N		

J. INDIVIDUAL RIGHTS

1.	AGR810	- TESTING & CERTIFICATION OF CONSUMER GOODS		26.25	*	25.25	*
	OPERATING		AGR	940,751	A	915,092	A
				26.25	*	26.25	*
			AGR	1,230,068	N	1,234,807	N
2.	CCA102	- CABLE TELEVISION		4.00	*	4.00	*
	OPERATING		CCA	615,693	X	630,215	X
3.	CCA103	- CONSUMER ADVOCATE FOR COMM, UTIL & TRANS SVC		19.00	*		*
	OPERATING		CCA	1,153,734	A		A
						22.00	*
			CCA			2,106,794	U
4.	CCA104	- FINANCIAL INSTITUTION SERVICES		31.00	*	31.00	*
	OPERATING		CCA	1,229,699	A	1,214,184	A
5.	CCA105	- PROFESSIONAL, VOCATIONAL & PERSONAL SVCS		55.00	*		*
	OPERATING		CCA	2,126,463	A	1,527,588	A
						59.00	*
			CCA			3,320,984	B
			CCA	1,349,750	T	1,431,000	T
6.	BUF901	- TRANSPORTATION, COMMUNICATIONS, & UTILITIES		42.00	*		*

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		OPERATING	BUF	1,960,980	A		A
			BUF			49.00 *	
						5,866,502	B
7.	CCA106	INSURANCE SERVICES					
		OPERATING	CCA	43.00 *		34.00 *	
			CCA	1,494,843	A	1,491,843	A
			CCA	1,380,000	B	1,380,000	B
			CCA	123,000	T	85,000	T
			CCA	4.00 *		13.00 *	
			CCA	650,000	W	1,600,718	W
8.	CCA110	OFFC OF CONSUMER PROT - ADV & TERMS OF SALE					
		OPERATING	CCA	29.00 *		29.00 *	
			CCA	1,037,168	A	1,061,038	A
			CCA	10,000	T	10,000	T
9.	AGR812	MEASUREMENT STANDARDS					
		OPERATING	AGR	24.00 *		24.00 *	
				838,195	A	835,495	A
10.	CCA111	BUSINESS REGISTRATION					
		OPERATING	CCA	32.00 *			*
			CCA	960,614	A	693,880	A
			CCA	14.00 *		57.00 *	
			CCA	846,725	B	3,042,436	B
11.	CCA191	GENERAL SUPPORT-PROTECTION OF THE CONSUMER					
		OPERATING	CCA	57.00 *		58.00 *	
			CCA	3,159,996	A	3,513,501	A
			CCA	4,657,351	B	4,751,820	B
12.	BUF151	LEGAL ASSISTANCE IN CRIMINAL ACTIONS					
		OPERATING	BUF	89.00 *		89.00 *	
			BUF	6,485,888	A	6,439,049	A
			BUF	55,000	N		
						85,000	U
13.	LNR111	CONVEYANCES AND RECORDINGS					
		OPERATING	LNR	61.00 *		61.00 *	
			LNR	2,060,302	A	2,170,252	A
						4.00 *	
			LNR			110,064	U
14.	HMS888	COMMISSION ON THE STATUS OF WOMEN					
		OPERATING	HMS	2.00 *		2.00 *	
				147,015	A	146,830	A
<b>K. GOVERNMENT-WIDE SUPPORT</b>							
1.	GOV100	OFFICE OF THE GOVERNOR					
		OPERATING	GOV	56.00 *		56.00 *	
		INVESTMENT CAPITAL	GOV	4,033,459	A	3,711,562	A
				1,000	C	1,000	C

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
2.	LTG100	OFFICE OF THE LIEUTENANT GOVERNOR					
	OPERATING		LTG	19.00 *		19.00 *	
			LTG	4,634,253 A		3,816,247 A	
				500 T		4,000,000 T	
3.	GOV102	GOV - OTH POLICY DEVELOPMENT & COORDINATION					
	OPERATING		GOV	10.00 *		10.00 *	
				5,674,805 A		5,364,003 A	
4.	GOV103	STATEWIDE PLAN AND COORDINATION					
	OPERATING		GOV	48.00 *		44.00 *	
				3,803,610 A		3,470,799 A	
				4.00 *		4.00 *	
	INVESTMENT CAPITAL		GOV	773,403 N		773,652 N	
			BED	4,500,000 C		400,000 C	
			GOV	50,000 C			
5.	BED103	LAND USE AND COASTAL MANAGEMENT					
	OPERATING		BED	7.00 *		7.00 *	
				546,063 A		521,438 A	
6.	BED104	HAWAII COMMUNITY DEVELOPMENT AUTHORITY					
	OPERATING		BED	5.00 *		5.00 *	
			BED	308,003 A		308,003 A	
			BED	1,500,000 B		3,300,000 B	
	INVESTMENT CAPITAL		BED	20,136,000 C		15,326,000 C	
7.	BUF101	BUF - PRGM PLANNG, ANALYSIS & BUDGETING					
	OPERATING		BUF	84.00 *		84.00 *	
			BUF	159,162,285 A		175,646,057 A	
				15,278,000 T		12,201,840 T	
8.	TAX102	INCOME ASSESSMENT AND AUDIT					
	OPERATING		TAX	128.00 *		130.00 *	
				4,211,869 A		4,392,505 A	
9.	TAX103	TAX COLLECTIONS ENFORCEMENT					
	OPERATING		TAX	109.00 *		109.00 *	
			TAX	2,710,927 A		3,147,432 A	
				500,000 B		B	
10.	TAX105	TAX SERVICES & PROCESSING					
	OPERATING		TAX	106.00 *		106.00 *	
				5,076,481 A		5,076,481 A	
11.	TAX107	SUPPORTING SERVICES - REVENUE COLLECTION					
	OPERATING		TAX	64.00 *		64.00 *	
				5,051,195 A		4,873,475 A	
12.	AGS101	ACCT SYSTEM DEVELOPMENT & MAINTENANCE					
	OPERATING		AGS	11.00 *		11.00 *	
				452,465 A		450,793 A	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
13.	AGS102 - EXPENDITURE EXAMINATION			23.00 *		23.00 *	
	OPERATING		AGS	1,009,147 A		1,009,147 A	
14.	AGS103 - RECORDING AND REPORTING			15.00 *		15.00 *	
	OPERATING		AGS	643,004 A		644,651 A	
15.	AGS104 - INTERNAL POST AUDIT			16.00 *		16.00 *	
	OPERATING		AGS	1,341,663 A		1,341,663 A	
16.	BUF111 - FINANCIAL PLANNING, POLICY & INVESTMENTS						
17.	BUF115 - FINANCIAL ADMINISTRATION DIVISION			33.00 *		31.00 *	
	OPERATING		BUF	343,926,130 A		359,683,414 A	
			BUF	6,700 B		6,700 B	
			BUF	5,605,000 T		12,145,000 T	
			BUF	5,525 U		5,525 U	
18.	BUF112 - TREASURY OPERATIONS						
19.	ATG100 - LEGAL SERVICES			215.08 *		214.08 *	
	OPERATING		ATG	17,663,090 A		16,131,257 A	
			ATG	18.10 *		18.10 *	
			ATG	4,123,141 N		4,123,141 N	
			ATG	3,318,000 T		3,318,000 T	
			ATG	34.82 *		34.82 *	
			ATG	3,576,080 U		3,923,993 U	
			ATG	3,000,000 W		3,000,000 W	
20.	BUF131 - ELECTRONIC DATA PROCESSING SERVICES			251.00 *		249.00 *	
	OPERATING		BUF	14,981,407 A		14,938,495 A	
			BUF	36.00 *		36.00 *	
			BUF	1,939,052 U		1,939,052 U	
21.	BUF161 - COMMUNICATION			13.00 *		13.00 *	
	OPERATING		BUF	5,260,419 A		4,923,958 A	
			BUF	1,543,705 U		1,676,456 U	
22.	BUF162 - HAWAII INFORMATION NETWORK CORP.						
	OPERATING		BUF	549,977 A		543,489 A	
23.	PER102 - WORK FORCE ATTR, SELECT, CLASS, & EFFECT			160.00 *		160.00 *	
	OPERATING		PER	19,971,438 A		20,065,279 A	
			PER	1,098,496 U		1,186,376 U	
			PER	385,694 W		415,694 W	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
24.	PER191	SUPPORTING SERVICES-PERSONNEL SERVICES					
	OPERATING		PER	17.00 *		17.00 *	
			PER	1,483,241 A		1,421,428 A	
				30,000 B		30,000 B	
25.	BUF141	RETIREMENT					
	OPERATING		BUF	35.65 *		36.40 *	
				274,312,070 A		204,327,812 A	
			BUF	10.35 *		10.60 *	
				621,942 S		638,874 S	
26.	BUF142	HEALTH & LIFE INSURANCE BENEFITS					
	OPERATING		BUF	15.00 *		15.00 *	
			BUF	679,833 A		678,696 A	
				254,150,000 T		292,272,500 T	
27.	LNR101	PUBLIC LANDS MANAGEMENT					
	OPERATING		LNR	43.00 *		43.00 *	
			LNR	1,341,732 A		1,340,095 A	
	INVESTMENT CAPITAL		LNR	1,253,000 B		1,248,000 B	
			LNR	1,745,000 B		2,885,000 B	
			LNR	C		1,200,000 C	
28.	AGS203	RISK MANAGEMENT					
	OPERATING		AGS	5.00 *		5.00 *	
			AGS	270,715 A		5,635,100 A	
	INVESTMENT CAPITAL		AGS	27,078,158 W		15,208,067 W	
			AGS	10,248,000 W			
29.	AGS211	LAND SURVEY					
	OPERATING		AGS	28.00 *		28.00 *	
				992,117 A		991,967 A	
30.	AGS223	OFFICE LEASING					
	OPERATING		AGS	5.00 *		5.00 *	
			AGS	18,776,536 A		18,782,603 A	
			AGS	2,500,000 U		2,500,000 U	
31.	AGS221	CONSTRUCTION					
	OPERATING		AGS	23.00 *		26.00 *	
			AGS	1,161,242 A		4,312,612 A	
	INVESTMENT CAPITAL		AGS	288,000 W		303,000 W	
			AGS	8,234,000 C		7,815,000 C	
32.	AGS231	CUSTODIAL SERVICES					
	OPERATING		AGS	167.50 *		167.50 *	
			AGS	9,675,606 A		9,694,148 A	
			AGS	430,501 U		430,501 U	
33.	AGS232	GROUNDS MAINTENANCE					
	OPERATING		AGS	39.00 *		39.00 *	
				1,204,773 A		1,188,241 A	
34.	AGS233	BUILDING REPAIRS AND ALTERATIONS					
	OPERATING		AGS	30.00 *		30.00 *	
				3,690,843 A		3,329,979 A	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
35.	AGS240 -	CENTRAL PURCHASING					
	OPERATING		AGS	18.00 *		18.00 *	
				632,908 A		632,123 A	
36.	AGS244 -	SURPLUS PROPERTY MANAGEMENT					
	OPERATING		AGS	34,409 A		34,409 A	
			AGS	5.00 *		5.00 *	
				192,487 W		192,487 W	
37.	AGS251 -	MOTOR POOL					
	OPERATING		AGS	12.50 *		12.50 *	
				1,278,787 W		1,235,683 W	
38.	AGS252 -	PARKING CONTROL					
	OPERATING		AGS	22.50 *		22.50 *	
				2,490,712 W		2,966,538 W	
39.	AGS111 -	RECORDS MANAGEMENT					
	OPERATING		AGS	29.00 *		29.00 *	
				809,010 A		808,246 A	
40.	AGS901 -	GENRL ADM SVCS - ACCOUNTING & GENERAL SVCS					
	OPERATING		AGS	55.00 *		55.00 *	
				2,105,237 A		2,076,246 A	
41.	SUB101 -	GRANTS-IN-AID TO COUNTIES					
42.	SUB201 -	CITY AND COUNTY OF HONOLULU					
	OPERATING		SUB	868,286 A		1,792,993 A	
	INVESTMENT CAPITAL		CCH	2,126,000 C		4,950,000 C	
43.	SUB301 -	COUNTY OF HAWAII					
	OPERATING		SUB	839,622 A		1,028,849 A	
	INVESTMENT CAPITAL		COH	6,810,000 C		2,551,000 C	
44.	SUB401 -	COUNTY OF MAUI					
	OPERATING		SUB	437,673 A		628,720 A	
	INVESTMENT CAPITAL		COM	4,000,000 C		3,595,000 C	
45.	SUB501 -	COUNTY OF KAUAI					
	OPERATING		SUB	237,890 A		392,929 A	
	INVESTMENT CAPITAL		COK	2,035,000 C		5,000,000 C"	

SECTION 4. Part III, Act 289, Session Laws of Hawaii 1993, as amended by Act 2, Special Session Laws of Hawaii 1993, is amended:

(1) By adding a new section to read as follows:

“SECTION 14.1. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$457,263 and four temporary positions for fiscal year 1994-1995 shall be transferred from the office of space industry to the business development and marketing division.”

(2) By adding a new section to read as follows:

“SECTION 14.2. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$441,215 for fiscal year 1994-1995 shall be used for the operation of the international business center of Hawaii; provided further that the center shall submit a report to include, but not be limited to, the following:

- (1) An expenditure plan identifying the application of funds to activities conducted and/or planned;
- (2) An action plan for the implementation and management of the center for the current and next fiscal year;
- (3) An assessment of the effectiveness of the center in meeting identified objectives and goals; provided that the effectiveness shall be determined by the use of specific, quantitative measures that will include:
  - (a) Number of international businesses brought in by the center;
  - (b) Total revenues versus expenditures generated by Hawaii businesses utilizing the center's services;

and provided further that a report shall be submitted to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(3) By adding a new section to read as follows:

“SECTION 14.3. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$500,000 for fiscal year 1994-1995 shall be used to support the economic diversification and development of the Hamakua-Kamuela region of the island of Hawaii; provided further that these funds will be expended to create a public-private partnership to develop digital imaging video systems including an electronic digital motion picture camera and an electronic digital motion picture projector; provided further that the partnership will locate its research and development and business facilities in the Hamakua-Kamuela region; provided further that the project will be publicly bid upon using the Request for Proposal procedures; and provided further that no funds will be made available unless matched on a dollar-for-dollar basis by private sources.”

(4) By amending section 18 to read as follows:

“SECTION 18. Provided that of the general fund appropriation for state tourism office (BED 113), the department of business, economic development, and tourism is authorized to fund the establishment and filling of two positions, in fiscal year 1993-1994 and three positions in fiscal year 1994-1995, exempt from the provisions of chapter 76 and 77, Hawaii Revised Statutes, to assist the staff of the state tourism office in promoting tourism; provided further that the department shall submit a report on the activities of these positions to the legislature no later than twenty days prior to the convening of the 1994 and 1995 regular sessions.”

(5) By adding a new section to read as follows:

“SECTION 19.1. Provided that of the general fund appropriation for state tourism office (BED 113), the sum of \$5,000,000 for fiscal year 1994-1995 shall



be used for advertising, marketing, and promotion by the Hawaii visitors bureau; provided further that no funds shall be made available unless matched on a dollar-for-dollar basis by private sources.”

(6) By adding a new section to read as follows:

“SECTION 19.2. Provided that of the general fund appropriation for state tourism office (BED 113), the sum of \$50,000 for fiscal year 1994-1995 shall be used to establish a temporary task force composed of the following members:

- (1) the director of the department of business, economic development, and tourism;
- (2) the director of labor and industrial relations;
- (3) the superintendent of education;
- (4) the dean of the school of travel industry management of the university of Hawaii;
- (5) the president of the Hawaii hotel association;
- (6) the chairperson of the university of Hawaii committee;
- (7) three members appointed by the governor to represent the Hawaiian community;
- (8) two members appointed by the governor to represent Hawaii’s visitor industry; and
- (9) four members with knowledge of Hawaiian culture, appointed by the governor to represent each of the four counties;

provided further that the members of the committee shall elect a chairperson from among the members of the committee; provided further that the task force shall be administratively attached to the state tourism office, department of business, economic development and tourism; and provided further that the task force shall develop a comprehensive plan to promote the aloha spirit among the people of Hawaii in general and among travel industry personnel in particular.”

(7) By adding a new section to read as follows:

“SECTION 19.3. Provided that of the general fund appropriation for state tourism office (BED 113), the sum of \$805,000 for fiscal year 1994-1995 shall be used as follows:

Honolulu Marathon	\$100,000
Destination Hilo	\$100,000
Aloha Festivals	\$250,000
Ironman Triathlon	\$50,000
Aloha Bowl	\$50,000
Hula Bowl	\$50,000
Great Aloha Run	\$40,000
Firefighters Games	\$100,000
Royal Hawaiian Masters	
Rugby Festival	\$25,000
Mo‘ikeha Cup	\$40,000

provided further that no funds will be made available unless matched on a dollar-for-dollar basis by private sources; and provided further that any net profits resulting from the firefighters games shall be used to repay the state.”

(8) By adding a new section to read as follows:

“SECTION 19.4. Provided that of the general fund appropriation for state tourism office (BED 113), the sum of \$50,000 for fiscal year 1994-1995 shall be used by the visitor industry education council (VIEC) to:

- (1) develop a statewide program of community-level “tourism awareness” workshops for the general public, Hawaii’s educators, and Hawaii’s youth;
- (2) develop and coordinate a statewide media campaign on the benefits of tourism, utilizing the new VIEC television spot, “The Story of a \$20 Bill”, with the message “support Hawaii’s visitor industry, it supports our life in Hawaii”;
- (3) work with community organizations on each island to create visitor industry awareness programs such as “Hawaii Tourism Week”;
- (4) produce and distribute updated curriculum materials supporting the popular VIEC videos, including the new “Hawaii Visitor Industry: You Make It Work”; and
- (5) expand the use of the VIEC kindergarten unit “Tourists Make Jobs” with statewide teacher and community workshops.”

(9) By adding a new section to read as follows:

“SECTION 19.5. Provided that of the general fund appropriation for state tourism office (BED 113), the sum of \$800,000 for fiscal year 1994-1995 shall be expended for the promotion of televised golf events in the state of Hawaii, including the Senior Skins, the Lincoln Mercury Kapalua International, the Kaanapali Classic, and the PGA Grand Slam of Golf; provided further that no funds shall be made available unless matched on a dollar-for-dollar basis by private sources.”

(10) By adding a new section to read as follows:

“SECTION 19.6. Provided that of the general fund appropriation for state tourism office (BED 113), the sum of \$100,000 for fiscal year 1994-1995 shall be used by the department of business, economic development, and tourism for the development of a comprehensive plan to promote ecotourism development in Hawaii; provided further that the department shall enlist the assistance of the appropriate federal agencies, the appropriate state agencies, the counties, the public sector, the private sector, cultural groups, the tourism industry, environmental groups, educational institutions, the Bishop Museum, and all other interested organizations; and provided further that the plan shall include but not be limited to provisions for:

- (1) The development, coordination and implementation of long range state policies as well as directions for ecotourism and related activities;
- (2) The establishment of appropriate incentives and a process to streamline the requirements involved in the development of ecotourism enterprises;
- (3) The elimination of inappropriate land use, building and infrastructure requirements for ecotourism-related facilities;
- (4) The enactment of appropriate standards, ordinances, rules, and laws governing ecotourism facilities and activities;
- (5) The identification of new geographic markets within the state;

and provided further that the department shall submit the plan to promote ecotourism development in Hawaii to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(11) By adding a new section to read as follows:

“SECTION 19.7. Provided that the Hawaii visitors bureau shall review the operations of its regional offices, the role of the market research department, and their relationship to neighbor island chapters with respect to the issues raised in the legislative auditor’s management and financial audit of the Hawaii visitors bureau (Report No. 93-25, December 1993); provided further that the report shall also include a description and justification of any significant changes to the organization and management structure of the Hawaii visitors bureau as of the effective date of this Act; and provided further that the Hawaii visitors bureau shall prepare and submit a comprehensive report on its findings and recommendations to the legislature twenty days prior to the convening of the 1995 regular session.”

(12) By adding a new section to read as follows:

“SECTION 20.1. Provided that of the general fund appropriation for plant pest and disease control (AGR 122), the department of agriculture shall evaluate the methods for controlling the formosan termite through biological control agents; provided further that the department shall submit a report on its findings to the legislature no later than twenty days prior to the convening of the regular session of 1995.”

(13) By adding a new section to read as follows:

“SECTION 20.2. Provided that of the general fund appropriation for marketing information and distribution systems improvement for agriculture (AGR 151), the sum of \$100,000 for fiscal year 1994-1995 shall be used to identify and implement commercially feasible technologies for the dairy industry, including impacts on energy utilization, product quality and production levels; provided further that no funds shall be made available unless matched on a dollar-for-dollar basis by private sources.”

(14) By adding a new section to read as follows:

“SECTION 22.1. Provided that for employment and training programs (LBR 131), two accountant III’s (18656E) and (18224E), one account clerk (18337E), one manpower research assistant (21157E) and one clerk typist II (21518E) shall be conferred civil service status within the meaning of chapter 76 and 77, Hawaii Revised Statutes, without the necessity of examination, without any reduction in pay and without any loss in seniority, prior service credit, vacation and sick leave credits earned, or loss of any benefits accorded a civil service employee.”

(15) By adding a new section to read as follows:

“SECTION 23.1. Provided that for DLIR - data gathering, research and analysis (LBR 901), one user service specialist (25991E), shall be conferred permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, without any reduction in

pay and without any loss of seniority, prior service credit, vacation and sick leave credits earned, or loss of any benefits accorded a civil service employee.”

(16) By adding a new section to read as follows:

“SECTION 26.1. Provided that for the office of community services (LBR 903), one program specialist III (16388E), two program specialists (06447E) and (07528E), one account clerk III (05164E), one clerk typist II (07131E), one administrative assistant (5975E), one assistant coordinator (07324E), and one accountant III (7115E), one secretary (04325E), and one community services planners (15822E), shall be conferred permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, without any reduction in pay and without any loss in seniority, prior service credit, vacation and sick leave credits earned, or loss of any other benefits accorded a civil service employee.”

(17) By repealing section 27.

(18) By adding a new section to read as follows:

“SECTION 27.1. The department of labor and industrial relations shall conduct a feasibility study in conjunction with a planning grant from the U.S. department of labor and education on a state school-to-work opportunities system in preparation for the development of a comprehensive state plan. The department shall submit a preliminary report on the status of the state plan to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(19) By adding a new section to read as follows:

“SECTION 27.2. Provided that of the special fund appropriation for the Honolulu international airport (TRN 102), the sum of \$21,332 for fiscal year 1994-1995 shall only be used by the contracts maintenance services unit, Oahu district, airports division for the establishment and hiring of a secretary I position and related expenses; provided further that this position shall not be transferred out of the contracts maintenance services unit, Oahu district, for any purpose.”

(20) By adding a new section to read as follows:

“SECTION 27.3. Provided that of the special fund appropriation for the Honolulu international airport (TRN 102), the sum of \$32,960 for fiscal year 1994-1995 shall only be used by the contracts maintenance services unit, Oahu district, airports division for the establishment and hiring of a civil engineer IV position and related expenses; provided further that this position shall not be transferred out of the contracts maintenance services unit, Oahu district, for any purpose; and provided further that projects assigned to this position shall be for the specific purpose of addressing the backlog of this unit.”

(21) By adding a new section to read as follows:

“SECTION 27.4. Provided that of the special fund appropriation for Honolulu international airport (TRN 102), the sum of \$958,500 for fiscal year 1994-1995 shall be used for the purchase of equipment for the aeronautics maintenance technology program at Honolulu community college; provided further that the

purchase of equipment meets the approval of the federal aviation administration; and provided further that the department of transportation shall submit a detailed expenditure and status report to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(22) By adding a new section to read as follows:

“SECTION 27.5. Provided that for Honolulu international airport (TRN 102), one passenger assistant supervisor (27174E) and five passenger assistant coordinators (25265E), (25266E), (25267E), (25268E) and (25269E), shall be conferred permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, without any reduction in pay and without any loss of seniority, prior service credit, vacation and sick leave credits earned, or loss of any benefits accorded a civil service employee.”

(23) By amending section 28 to read as follows:

“SECTION 28. Provided that of the special fund appropriation for airports administration (TRN 195), the sum of \$263,172,000 for the fiscal biennium 1993-1995 shall be used for only the following purposes:

<u>Purpose</u>	<u>FY 1993-1994</u>	<u>FY 1994-1995</u>
Interest and Principal on General Obligation Bonds	\$3,687,000	\$3,424,000
Interest and Principal on Revenue Bonds	\$127,120,000	\$128,941,000

provided further that the funds shall not be transferred for any other purpose; provided further that the department shall prepare a detailed report of all expenditures as of December 31 and June 30 for each fiscal year; and provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(24) By adding a new section to read as follows:

“SECTION 28.1. Provided that of the special fund appropriations for airports administration (TRN 195), the sum of \$200,000 for fiscal year 1994-1995 shall be used to develop a master plan that will incorporate Hawaii’s unique cultural influences, activities and products into the operations of the statewide airport system; provided further that a temporary Hawaii airports cultural development committee shall be established to develop the master plan, until June 30, 1996 when the committee shall cease to exist; provided further that the committee shall submit a progress report to the legislature no later than twenty days prior to the convening of the 1995 regular session; and provided further that a proposed

master plan with recommendations for implementation shall be submitted to the legislature no later than twenty days prior to the convening of the 1996 regular session.”

(25) By adding a new section to read as follows:

“SECTION 28.2. Provided that of the special fund appropriation for airports administration (TRN 195), the sum of \$1,000,000 for fiscal year 1994-1995 shall be used for marketing and promotional activities for airport facilities on the three counties of Kauai, Maui, and Hawaii; provided further that each county shall receive equal amounts; provided further that the marketing and promotional activities for the facilities meet the approval of the federal aviation administration; and provided further that the department of transportation shall submit a detailed expenditure and status report to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(26) By adding a new section to read as follows:

“SECTION 28.3. Provided that of the special fund appropriation for airports administration (TRN 195), the sum of \$237,394 for fiscal year 1994-1995 shall be used for instructional courses beneficial to the airports, at Honolulu community college; provided further that the instructional courses at Honolulu community college meet the approval of the federal aviation administration; and provided further that the department of transportation shall submit a detailed expenditure and status report to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(27) By adding a new section to read as follows:

“SECTION 28.4. Provided that for airports administration (TRN 195), one special assistant (25649E), shall be conferred civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, without any reduction in pay and without any loss of seniority, prior service credit, vacation and sick leave credits earned, or loss of any other benefits accorded a civil service employee.”

(28) By adding a new section to read as follows:

“SECTION 28.5. Provided that for airports administration (TRN 195) one air passenger services officer (25691E) and one route development specialist (26740E), shall be conferred permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, without any reduction in pay and without any loss of seniority, prior service credit, vacation and sick leave credits earned, or loss of any benefits accorded a civil service employee.”

(29) By amending Section 29 to read as follows:

“SECTION 29. Provided that of the special fund appropriation for harbors administration (TRN 395), the sum of \$35,927,428 for the fiscal biennium 1993-1995 shall be used for only the following purposes:

ACT 252

<u>Purpose</u>	<u>FY 1993-1994</u>	<u>FY 1994-1995</u>
Interest and Principal on General Obligation Bonds	\$1,177,340	\$1,135,088
Interest and Principal on Revenue Bonds	\$13,500,000	\$20,115,000

provided further that the funds shall not be transferred for any other purpose; provided further that the department shall prepare a detailed report of all expenditures as of December 31 and June 30 for each fiscal year; and provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(30) By amending Section 30 to read as follows:

“SECTION 30. Provided that of the special fund appropriation for highways administration (TRN 595), the sum of \$65,323,614 for the fiscal biennium 1993-1995 shall be used for only the following purposes:

<u>Purpose</u>	<u>FY 1993-1994</u>	<u>FY 1994-1995</u>
Interest and Principal on General Obligation Bonds	\$25,308,336	\$28,250,000
Interest and Principal on Revenue Bonds	\$ 5,865,278	\$ 5,900,000

provided further that the funds shall not be transferred for any other purpose; provided further that the department shall prepare a detailed report of all expenditures as of December 31 and June 30 for each fiscal year; and provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(31) By adding a new section to read as follows:

“SECTION 30.1. Provided that of the special fund appropriation for highways administration (TRN 595), the sum of \$100,000 in fiscal year 1994-1995 shall be used to establish and operate a telework center in Kapaa, Kauai, and to acquire computer and communications equipment necessary for the initial operation of the same; and provided further that the department of transportation, the Hawaii telework center, the department of accounting and general services, and the governor’s office of information shall cooperate on the start-up endeavor and

develop an interagency operational plan for the immediate and long-term future of the same.”

(32) By adding a new section to read as follows:

“SECTION 30.2. Provided that of the special fund appropriation for highway safety (TRN 595), the sum of \$27,000 for fiscal year 1994-1995 shall be used to ensure the adequate availability of motorcycle safety training to residents of all counties; provided further that there shall be at least two certified chief instructors designated within the city and county of Honolulu and one each for the counties of Hawaii, Maui, and Kauai; and provided further that the department shall prepare a detailed report on the status of motorcycle safety training and that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(33) By adding a new section to read as follows:

“SECTION 31.1. Provided that the department of health shall identify the special fund resources available to environmental management (HTH 840), and develop a plan for the conversion of the method of financing from general funds to special funds for positions in the clean air branch; provided further that details of this plan shall be submitted to the legislature no later than twenty days prior to the convening of the regular session of 1995.”

(34) By adding a new section to read as follows:

“SECTION 31.2. Provided that of the general fund appropriation for environmental health administration (HTH 849), the sum of \$100,000 for fiscal year 1994-1995 shall be used to match available federal funds under the federal Clean Water Act §319, (h), for the continuation and expansion of the state nonpoint source pollution program; and provided further that an additional sum of \$60,000 for fiscal year 1994-1995 shall be used for Lahaina algal blooms for the preparation of a master drainage plan.”

(35) By adding a new section to read as follows:

“SECTION 31.3. Provided that for LNR - natural physical environment (LNR 906), one special assistant (07523E), shall be conferred permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, without any reduction in pay and without any loss of seniority, prior service credit, vacation and sick leave credits earned, or loss of any benefits accorded a civil service employee.”

(36) By adding a new section to read as follows:

“SECTION 35.1. Provided that of the special fund appropriation for Hilo hospital (HTH 211), the amount of \$351,873 for fiscal year 1994-1995 shall be expended for the family practice ambulatory health center of Hilo hospital.”

(37) By adding a new section to read as follows:

“SECTION 42.1. Provided that of the general fund appropriation for private hospitals and medical services (SUB 601), the sum of \$200,000 for fiscal



year 1994-1995 shall be used to contract for renal dialysis on the islands of Molokai and Lanai.”

(38) By adding a new section to read as follows:

“SECTION 42.2. Provided that of the general fund appropriation for adult mental health (HTH 420), the sum of \$246,600 for fiscal year 1994-1995 shall be used for mental health services to hearing impaired persons.”

(39) By adding a new section to read as follows:

“SECTION 42.3. Provided that of the general fund appropriation for adult mental health (HTH 420), the sum of \$200,000 for fiscal year 1994-1995 may be used to offset the loss of federal block grant funds to continue purchases of services for adult mental health services.”

(40) By adding a new section to read as follows:

“SECTION 43.1. Provided that of the funds appropriated or authorized for child and adolescent mental health (HTH 460), the sum of at least \$10,000,000 for fiscal year 1994-1995 shall be expended to fulfill the State’s responsibility to provide mental health services for children eligible to receive special education and related services under the Individuals with Disabilities Education Act and section 504 of the Vocational Rehabilitation Act of 1973.”

(41) By adding a new section to read as follows:

“SECTION 47.1. Provided that of the general fund appropriation for developmental disabilities (HTH 501), the sum of \$500,000 for fiscal year 1994-1995 shall be used for start up costs for home and community based services or community intermediate care facilities for the mentally retarded.”

(42) By adding a new section to read as follows:

“SECTION 49.1. Provided that the department of health, under family health services (HTH 530), shall maximize the matching and collection of Title XIX funds for the provision of family support services for primary prevention of child abuse and neglect, including, but not limited to, the healthy start and zero-to-three programs; provided further that the department of human services through the health care payments program (HMS 230) may transfer not more than \$1,100,000 to family health services (HTH 530), to enhance or expand both programs; and provided further that the department of health shall submit a status report on healthy start, zero-to-three, and other related program expenditures and reimbursements to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(43) By adding a new section to read as follows:

“SECTION 49.2. Provided that of the general fund appropriation for family health services (HTH 530), the sum of \$8,694,531 for fiscal year 1994-1995 shall be expended for the healthy start program; provided further that the funds appropriated shall be expended for the prevention of child abuse and

neglect through the early identification and family support home visitor programs and shall not be expended for any other purpose, except program evaluation and monitoring.”

(44) By adding a new section to read as follows:

“SECTION 49.3. Provided that of the general fund appropriation for school health services (HTH 540), the sum of \$500,000 for fiscal year 1994-1995 shall be used for school-based health clinics at Kapaa high and intermediate school (Kauai district), Kahuku high and intermediate school (windward district) and Mililani high school (central district); provided further that the mental health component of the clinics shall conform to guidelines to be developed jointly by school health services (HTH 540), the Robert Woods Johnson Foundation and the department of education; provided further that rural areas shall be given primary consideration for the establishment of school health clinics.”

(45) By adding a new section to read as follows:

“SECTION 49.4. Provided that of the general fund appropriation for personal health services administration (HTH 595), the sum of \$1,000,000 for fiscal year 1994-1995 shall be used to provide respite services.”

(46) By adding a new section to read as follows:

“SECTION 50.1. Provided that of the general fund appropriation for state health insurance (HTH 770), the sum of \$14,419,208 and 18.00 permanent positions for fiscal year 1994-1995 are transferred to the department of human services for general support for health care payments (HMS 902) (\$904,777 and 18.00 permanent positions) and health care payments (HMS 230) (\$13,514,431) in fiscal year 1994-1995 to be used to provide medical care for uninsured gap group individuals as part of the Health QUEST demonstration project; and provided further that no funds shall be transferred into state health insurance (HTH 770).”

(47) By adding a new section to read as follows:

“SECTION 51.1. Provided that the department of health shall undertake efforts to reduce general fund program expenditures by not more than \$1,800,000 in order to increase reimbursements for the adult residential care home services licensed through health resources administration (HTH 795).”

(48) By adding a new section to read as follows:

“SECTION 51.2. Provided that of the general fund appropriation for general administration (HTH 907), the sum of \$40,872 for fiscal year 1994-1995 shall be used to fund personnel costs for the reproductive rights protection committee.”

(49) By adding a new section to read as follows:

“SECTION 54.1. Provided that in order to assess the foster board payment program, the auditor shall conduct a management and financial audit of

**ACT 252**

the department of human services, which shall include, but not be limited to, the following:

- (1) a detailed description of the program's purposes and goals;
- (2) an explanation of how foster board payments are determined and projected;
- (3) a detailed description of the demographic characteristics of foster board payment recipients;
- (4) an expenditure report of foster board payments since the inception of the program that details all purchase order as well as PWS-5 data;
- (5) an explanation of how overpayments may occur and how these payments are recovered;
- (6) documentation of the department of human services' attempt to maximize federal fund reimbursements in the area of foster care; and
- (7) a description of how the families together initiative has and is expected to impact on foster care;

and provided further that the auditor shall submit findings and recommendations to the legislature no later than twenty days prior to the convening of the 1995 regular session."

(50) By adding a new section to read as follows:

"SECTION 55.1. Provided that of the general fund appropriation for youth services program (HMS 502), the sum of \$30,000 for fiscal year 1994-1995 shall be used for substance abuse education for the island of Hawaii."

(51) By adding a new section to read as follows:

"SECTION 55.2. Provided that for services to veterans (DEF 112), one veterans services coordinator (24123E) and one secretary (24124E), shall be conferred permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, without any reduction in pay and without any loss of seniority, prior service credit, vacation and sick leave credits earned, or loss of any benefits accorded a civil service employee."

(52) By adding a new section to read as follows:

"SECTION 56.1. Provided that the general fund and federal fund appropriations for payments to assist families with dependent children (HMS 201) for fiscal year 1994-1995 shall be used only for the aid to families with dependent children program."

(53) By adding a new section to read as follows:

"SECTION 56.2. Provided that the general fund and federal fund appropriations for payments to assist families with dependent children (HMS 201), payments to assist the aged, blind and disabled (HMS 202), and other general assistance payments (HMS 204) for fiscal year 1994-1995 shall be used for only the following purposes:

<u>Program</u>	<u>FY 1994-1995</u>
HMS 201	
Payments to assist families with dependent children	79,005,086A 79,005,086N
 HMS 202	
Payments to assist the aged, blind & disabled	 19,222,972A
 HMS 204	
Other general assistance payments	 42,889,464A

provided further that unrequired balances in each program shall not be transferred for any other purpose except to offset shortfalls among the three programs listed.”

(54) By adding a new section to read as follows:

“SECTION 56.3. Provided that in order to assess the methodology involved in making projections on payment programs (HMS 201, 202, and 204) and the reasons for the large shortfalls that have occurred over the past few years, the department of human services shall conduct a study that includes, but is not limited to, the following:

- (1) a historical account of the payment programs and the various formulas and methodologies that have been utilized to make projections;
- (2) a detailed description of the demographic characteristics of aid to families with dependent children (AFDC) recipients, general assistance (GA) recipients, and aid to the aged, blind, and disabled (AABD) recipients, including, but not limited to, residency, ethnicity, age, amount of time spent on welfare, reason for being on welfare, and recidivism rate; and
- (3) an explanation of the attempts the department has made to deal with the continual shortfall and to make more accurate projections;

and provided further that the department of human services shall submit findings and recommendations to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(55) By adding a new section to read as follows:

“SECTION 57.1. Provided that of the funds appropriated to rental housing services (HMS 220) the sum of \$114,085 shall be used for the Mayor Wright homes to increase guard patrol hours, for tenant security training and equipment, and for security gates and lights.”

(56) By adding a new section to read as follows:

“SECTION 62.1. Provided that none of the funds appropriated for health care payments (HMS 230) may be used for fertility drugs unless their use is for other than reproductive purposes.”

(57) By adding a new section to read as follows:

“SECTION 63.1. Provided that in order to determine the effectiveness of the job opportunities and basic skills (JOBS) program, the food stamp employment and training program, and the general assistance (GA) work program, the auditor shall conduct an audit of these programs, which shall include, but not be limited to, the following:

- (1) a detailed description of each of the program’s purposes and goals as delineated by state or federal statutes;
- (2) a detailed description of the demographic characteristics of all clients since the inception of each of the programs, which shall include, but not be limited to, residency, ethnicity, age, amount of time spent on welfare, reason for being on welfare, recidivism rate;
- (3) an analysis of how each of these programs has impacted the expenditures of the AFDC, the Food Stamp, and the GA programs; and
- (4) a follow-up on former clients of each of these programs;

and provided further that the auditor shall submit findings and recommendations to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(58) By adding a new section to read as follows:

“SECTION 63.2. Provided that in order to maximize federal fund reimbursements to the State, the department of human services shall coordinate efforts to capture these funds by doing the following:

- (1) take the lead in developing an interagency coordination team with the department of health and other departments that have the potential to draw down federal funds on services provided;
- (2) develop a listing by department on the type of federal funds the State has the potential to draw down, including, but not limited to, medicaid, and Title IV-A, IV-B, and IV-E funds;
- (3) develop a listing by department on the current services that are eligible for federal fund reimbursements; and
- (4) submit a report by department on how much the State could draw down in federal reimbursements with current spending levels;

and provided further that the department of human services and the department of health shall submit findings and recommendations to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(59) By adding a new section to read as follows:

“SECTION 63.3. Provided that the federal fund reimbursements under Title IV-A and Title IV-E for child welfare services (HMS 301) and child foster care services (HMS 303) for fiscal year 1994-1995 shall be returned to the general fund; provided further that any excess reimbursements above the general fund appropriation for fiscal year 1994-1995 shall be made available to the department of human services only for expenditures for payments to assist families with dependent children (HMS 201), other general assistance payments (HMS 204), and child foster care services (HMS 303).”

(60) By adding a new section to read as follows:

“SECTION 66.1. Provided that for fiscal year 1994-1995, the sum of

\$3,000,000 shall be transferred from the Hawaiian home operating fund, created by section 213(e), Hawaiian Homes Commission Act, 1920, as amended, to the Hawaiian home administration account, created by section 213(f), Hawaiian Homes Commission Act, 1920, as amended.”

(61) By adding a new section to read as follows:

“SECTION 66.2. Provided that in order to ensure thorough legislative review of Phase II of the Hawaii Health QUEST program, which is the incorporation of services for the aged, blind, and disabled, through QUEST, the department of human services shall provide a complete report to the legislature no later than twenty days prior to the convening of the 1995 regular session. The report shall be a detailed plan on how the department would like to proceed. Such plan shall have the input of physicians, community leaders, health plans, other state agencies, legislative staff, and intended recipients of the services.”

(62) By adding a new section to read as follows:

“SECTION 73.1. Provided that of the general fund appropriation for school based budgeting (EDN 100), the sum of \$10,000 shall be used for the operation of the Hawaii Young Scholars program.”

(63) By adding a new section to read as follows:

“SECTION 73.2. Provided that of the general fund appropriation for school based budgeting (EDN 100), the sum of \$250,000 for fiscal year 1994-1995 shall be used to implement school community based management at Moanalua high school.”

(64) By adding a new section to read as follows:

“SECTION 73.3. Provided that of the general fund appropriation for school based budgeting (EDN 100), the sum of \$845,000 for fiscal year 1994-1995 shall be used for the operation of the middle schools program; provided further that the middle schools, Castle high school’s gold core project, Ahuimanu elementary school’s masters in learning project, and Kahuku high and intermediate school’s aquaculture project programs shall be separate and distinct from programs in the incentive and innovation grant trust fund; provided further that these programs shall continue to be funded at levels equivalent to those received in fiscal year 1993-1994; provided further that these moneys shall be moved from the incentive and innovation grant fund for the operation of these programs; and provided further that the department shall submit a report to the legislature detailing the establishment of these programs and the transfer of funds no later than twenty days prior to the convening of the 1995 regular session.”

(65) By adding a new section to read as follows:

“SECTION 73.4. Provided that regardless of the source of funding, the department of education school food services program shall purchase hamburger meat produced from locally grown beef since it is in the best interest of the department to promote health and vitality of its students, while encouraging the health and vitality of the state’s economy, through the purchase of locally

produced hamburger meat in order to support local industries, which in turn provide a continued source of revenue for the state of Hawaii.”

(66) By adding a new section to read as follows:

“SECTION 75.1. Provided that of the general fund appropriation for school community service (EDN 500), the sum of \$165,000 for fiscal year 1994-1995 shall be used equally among the fifty volunteer parent community network centers currently not serviced by paid coordinator positions at Wheeler, Waimalu, Webling, Mililani Uka, Mililani-Mauka, Pearl Harbor, Barbers Point, Ewa, Kaimiloa, Mauka Lani, Lehua, Ewa Beach, Fern, Kalihi, Kalihi-Uka, Royal, Kaahumanu, Kuhio, Koko Head, Manoa, Puuhale, Kalihi-Waena, Linapuni, King Kaumualii, DeSilva, Keonepoko, Konawaena, Keaukaha, Kalaniana'ole, Waiakea, Pukalani, Iao, Maunaloa, Enchanted Lake, Kainalu, and Kahuku elementary schools and at Moanalua, Wheeler, Jarrett, Central, Maui Waena, and King intermediate schools, and at Radford, Leilehua, Farrington, Kaimuki, McKinley, Roosevelt, Pahoia and Kalaheo high schools; provided further that these funds shall be used for the purchase of equipment, supplies, and other expenses for each volunteer parent community network center.”

(67) By amending section 78 to read as follows:

“SECTION 78. Provided that the department of education shall follow legislative intent and use the 1993 regular session budget worksheets as a guide in executing the following programs: school based budgeting (EDN 100), instructional support (EDN 200), state and district administration (EDN 300), school support (EDN 400), and school community service (EDN 500); provided further that the transfer of positions and funds from EDN 100 to EDN 200, EDN 300, EDN 400, and EDN 500 shall only be allowed for directly related school/student services; provided further that these provisions shall apply only to the 1993-1994 fiscal year; and provided further that the department shall submit a report to the legislature detailing all transfers between programs, along with appropriate, approved justification forms no later than twenty days prior to the convening of the 1995 regular session.”

(68) By adding a new section to read as follows:

“SECTION 78.1. Provided that the department of education shall follow legislative intent in executing the following programs: school based budgeting (EDN 100), instructional support (EDN 200), state and district administration (EDN 300), school support (EDN 400), and school community service (EDN 500); provided further that transfers of positions or funds from EDN 100 to EDN 200, EDN 300, EDN 400, or EDN 500 shall not be allowed except on approval of the governor; provided further that the department may transfer positions or funds between EDN 200, EDN 300, EDN 400, or EDN 500; provided further that the department shall submit a report to the legislature detailing all transfers between programs; provided further that this report shall include, but not be limited to, the following:

- (1) the purpose and nature of the transfer of positions and/or funds;
- (2) the program, fund, and office from which the positions and/or funds were transferred out;
- (3) the program, fund, and office to which positions and/or funds were transferred in;

- (4) the impact of transfers on the specific programs, funds, and offices whereby funds and/or positions were transferred out or transferred in; and

provided further that the department shall submit this report to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

- (69) By adding a new section to read as follows:

“SECTION 81.1. Provided that the department of education, through the use of the data warehouse information system, shall provide analysts from the legislature with access to information from internal department information systems; provided further that of the general fund appropriation for state and district administration (EDN 300), the sum of \$50,000 for fiscal year 1994-1995 and one temporary position shall be expended for one systems analyst IV position and related equipment for the purposes of maintaining the data warehouse system; provided further that this position shall provide adequate training in the use of this system to legislative analysts so that pertinent information relating to expenditures and student performance can be retrieved for the purposes of legislative oversight; and provided further that the training of these analysts shall commence no later than twenty days prior to the convening of the 1995 regular session.”

- (70) By amending Section 82 to read as follows:

“SECTION 82. Provided that in order to facilitate the legislative review process, the department of education shall provide a report relating to the allocation of positions and funds for each school according to school based budgeting; provided further that this report shall include but not be limited to, the following:

- (1) a detailed expenditure report for each school broken down by means of financing;
- (2) departmental policies and program standards for school based budgeting;
- (3) a detailed expenditure report on the actual funds allocated to state and district offices;

provided further that a status report on school based budgeting shall be submitted to the legislature no later than twenty days prior to the convening of the 1994 legislative session.”

- (71) By adding a new section to read as follows:

“SECTION 82.1. Provided that the department of education, the department of human services, and the department of health shall develop and implement interagency working agreements regarding services provided to children (1) under special education programs and (2) through school-based health centers; provided further that these agreements shall clearly delineate the responsibilities of each of the departments as to the services provided to these populations; provided further that in instances where these services qualify for federal reimbursements, the department of education, the department of health, and the department of human services shall develop methods to pursue such reimbursements; provided further that the department of education, the department of health, and the department of human services shall each submit certified reports which shall include, but not be limited to, the following information:

- (1) the nature of the working agreements pertaining to special education and school-based health services between the department of



education, the department of human services, and the department of health;

- (2) services provided by each of the departments, including, but not limited to, population identification, referrals, diagnostic and assessment services, development of treatment plans, treatment, and follow-up evaluations;
- (3) personnel to be used to provide these services, including, but not limited to, information pertaining to qualifications, training, composition of treatment teams, and staffing levels;
- (4) facilities to be used to provide services, including, but not limited to, information pertaining to the parties responsible for providing facilities, and the determining of appropriate levels of equipment for these facilities;
- (5) standards and procedures contained in the agreements, including, but not limited to, interagency coordination, lines of authority, and areas of responsibility and accountability; and
- (6) a listing of current services and funding provided for children receiving services (1) under special education programs and (2) through school-based health centers, that qualify for federal reimbursement;

and provided further that the departments shall each submit the reports with findings and recommendations to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(72) By adding a new section to read as follows:

“SECTION 84.1. Provided that of the general fund appropriation for physical plant operation and maintenance (AGS 807), the sum of \$100,000 for fiscal year 1994-1995 shall be used by the department of education to evaluate the policies, procedures, and performance of the school repair and maintenance program; provided further that the DOE shall prepare a report, which shall include recommendations, fiscal analysis and timetables for implementation, that detail how the program should be organized to achieve maximum efficiency and improve its effectiveness; and provided further that the DOE shall submit a report to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(73) By adding a new section to read as follows:

“SECTION 89.1. Provided that of the general fund appropriation for the university of Hawaii, Manoa (UOH 100), the sum of \$75,000 for fiscal year 1994-1995 shall be expended by the school of architecture to establish an Asian Pacific Center for Architecture program; provided further that no funds shall be made available unless matched on a dollar-for-dollar basis by private contributions.”

(74) By adding a new section to read as follows:

“SECTION 89.2. Provided that of the general fund appropriation for university of Hawaii, Hilo (UOH 210), the sum of \$7,500 for fiscal year 1994-1995 may be expended at the discretion of the chancellor of UH-Hilo.”

(75) By adding a new section to read as follows:

“SECTION 93.1. Provided that of the general fund appropriation for community colleges, systemwide support (UOH 906), the sum of \$200,000 shall be appropriated to cover increases in utility expenses; and provided further that the community colleges shall submit a detailed expenditure and status report to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(76) By amending Section 95 to read as follows:

“SECTION 95. Provided that the university of Hawaii shall submit a report verifying the status of all general funded budget items appropriated to the University in Act 296, Session Laws of Hawaii 1991, as amended by Act 300, Session Laws of Hawaii 1992, and address each sequence number of the budget worksheets as to whether the appropriated funds are included in the department’s fiscal year 1993 allocation; provided further that if the funds have not been allocated, the University shall provide a justification and rationale for restricting the funds; provided further that for funds that have been allocated, the University shall identify by specific level V programs, the final amounts expended including the status of each position established, and provided further that the university of Hawaii shall submit this report to the legislature no later than twenty days prior to the convening of the 1994 regular session.”

(77) By adding a new section to read as follows:

“SECTION 97.1. Provided that the university of Hawaii shall submit a report substantiating all revenues, expenditures and transfers of the university of Hawaii housing assistance revolving fund for the fiscal year 1994; provided further that the report shall include, but not be limited to, the allocation of funds to the thirty faculty positions that will be assisted; and provided further that the university of Hawaii shall submit this report to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(78) By adding a new section to read as follows:

“SECTION 98.1. Provided that notwithstanding the submission of foundation grant proposals and the identification of potential recipients pursuant to section 9-13, Hawaii Revised Statutes, if after an appropriation has been made for a foundation grant, and in the opinion of the foundation, any identified potential recipient becomes ineligible to be a recipient under section 9-11, 9-12, or 9-17 of the Hawaii Revised Statutes or becomes unwilling, unable, or unqualified to satisfactorily provide the desired performance of its services as contained in its foundation grant proposal, the foundation may expend the appropriated funds to provide the desired services through available means, including awarding the foundation grants to recipients not previously identified, when in the opinion of the foundation such re-identification will be in the best interest of the public.”

(79) By adding a new section to read as follows:

“SECTION 99.1. Provided that of the special fund appropriation for spectator events and shows - aloha stadium (AGS 889), the sum of \$7,500 for fiscal year 1994-1995 may be expended at the discretion of the stadium manager.”

**ACT 252**

(80) By adding a new section to read as follows:

“SECTION 99.2. Provided that of the general fund appropriation for correction program services (PSD 420), the sum of \$197,952 for fiscal year 1994-1995 shall be expended for the registered professional nurses shortage differential and shall not be expended for any other purpose; provided further that the department of public safety shall submit a detailed expenditure and status report to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(81) By adding a new section to read as follows:

“SECTION 99.3. Provided that of the general fund appropriation for correction program services (PSD 420), the sum of \$948,736 for fiscal year 1994-1995 shall be expended for twenty three and a half (23.5) mental health services positions and related expenses and shall not be expended for any other purpose; provided further that the department of public safety shall submit a detailed expenditure report to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(82) By adding a new section to read as follows:

“SECTION 99.4. Provided that of the general fund appropriation for protective services (PSD 501), the sum of \$922,267 for fiscal year 1994-1995 shall be used for security contracts transferred into the department of public safety from the department of education; provided further that the department of public safety shall submit a detailed expenditure and status report to the legislature no fewer than twenty days prior to the convening of the 1995 regular session.”

(83) By adding a new section to read as follows:

“SECTION 99.5. Provided that of the general fund appropriations for the Hawaii paroling authority the sum of \$1,693,273 for fiscal year 1993-1994 and \$1,679,605 for fiscal year 1994-1995 shall be expended for the following programs:

	<u>FY 1993-1994</u>	<u>FY 1994-1995</u>
PSD 611	\$176,100	\$175,230
PSD 612	\$1,517,173	\$1,504,375

provided further that the funds shall not be expended for any other purpose; provided further that the department of public safety and the Hawaii paroling authority shall each submit detailed expenditure and status reports to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(84) By adding a new section to read as follows:

“SECTION 99.6. Provided that of the general fund appropriations for criminal injuries compensation (PSD 613) the sum of \$270,521 for fiscal year

1993-1994 and \$267,306 for fiscal year 1994-1995 shall be expended for the criminal injuries compensation commission and shall not be expended for any other purpose; provided further that the department of public safety and the criminal injuries compensation commission shall each submit detailed expenditure and status reports to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(85) By adding a new section to read as follows:

“SECTION 100.1. Provided that of the revolving fund appropriation for general administration (PSD 900), the department of public safety is authorized to establish thirty temporary exempt positions for the Hawaii correctional industries program for fiscal year 1994-1995; and provided further that the department shall submit a detailed expenditure and status report to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(86) By adding a new section to read as follows:

“SECTION 104.1. Provided that the auditor shall conduct a comprehensive follow-up study and review of the security staffing needs of each correctional facility and center of the department of public safety; and provided further that the study shall include, but not limited to, an analysis and assessment of:

- (1) overtime management;
- (2) the current shift relief factor and uniform manning formula computation;
- (3) relief posts and schedules;
- (4) on-going negotiations with the United Public Workers (UPW);
- (5) security post and work position plans for each of the facilities and centers;
- (6) the current status of the Spear consent decree Civil No. 84-1104;

and provided further that the auditor shall submit a report of findings and recommendations to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(87) By adding a new section to read as follows:

“SECTION 104.2. Provided that of the general fund appropriation for state criminal justice information and identification (ATG 231), the sum of \$180,000 for fiscal year 1994-1995 shall be expended for software maintenance on the automated fingerprint identification system (AFIS); provided further that the department of the attorney general shall submit a detailed expenditure and status report to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(88) By adding a new section to read as follows:

“SECTION 104.3. Provided that of the special fund appropriation for general support - protection of the consumer (CCA 191), the sum of \$4,751,820 for fiscal year 1994-1995 shall be appropriated for the compliance resolution fund; provided further that the fund shall be allocated as follows:

**ACT 252**

Director's office	\$369,573
Regulated industries complaints office	\$3,759,825
Office of consumer protection	\$210,048
Business registration division	\$412,374

and provided further that these allocations shall be treated as separate appropriation symbol accounts.”

(89) By adding a new section to read as follows:

“SECTION 107.1. Provided that of the general fund appropriation for office of the governor (GOV 100), the sum of \$350,972 for fiscal year 1994-1995 shall be expended for protection and advocacy services and shall not be expended for any other purpose; provided further that to ensure the proper expenditure of funds, the department shall submit a detailed expenditure and status report to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(90) By adding a new section to read as follows:

“SECTION 110.1. Provided that for GOV - other policy development and coordination (GOV 102), one secretary (21016E), shall be conferred permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, without any reduction in pay and without any loss of seniority, prior service credit, vacation and sick leave credits earned, or loss of any benefits accorded a civil service employee.”

(91) By adding a new section to read as follows:

“SECTION 113.1. Provided that of the general fund appropriation for statewide plan and coordination (GOV 103), the sum of \$10,000 for fiscal year 1994-1995 shall be used by the office of state planning to undertake a regional planning program for the north shore region of Oahu to respond to the changing economic, social, and physical changes accompanying the imminent decline of sugar cane production; provided further that the office of state planning shall undertake such program in coordination with the city and county of Honolulu, appropriate state agencies, major land owners in the region, and the north shore community at large; and provided further that the office of state planning shall submit a report on its findings and recommendations to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(92) By adding a new section to read as follows:

“SECTION 113.2. Provided that of the general fund appropriation for statewide plan and coordination (GOV 103), the sum of \$10,000 for fiscal year 1994-1995 shall be used by the office of state planning to assist in development

of a rural agricultural community development plan for the rural Waiahole-Waikane region of Koolaupoko, Oahu; provided further that the office of state planning shall undertake such a program in coordination with the city and county of Honolulu, appropriate state agencies, major land owners in the region, and the community at large; and provided further that the office of state planning shall submit a status report on its findings and recommendations to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(93) By amending Section 114 to read as follows:

“SECTION 114. Provided that of the general fund appropriation for program planning, analysis and budgeting (BUF 101), the sum of \$152,994,011 in fiscal year 1993-1994 and \$169,627,376 in fiscal year 1994-95 shall be used for the following purposes:

<u>Purpose</u>	<u>FY 1993-1994</u>	<u>FY 1994-1995</u>
Health fund premiums active and retiree	\$146,899,394	\$163,532,759
Witness fees & Related Expenses	\$3,052,262	\$3,052,262
Court appointed counsel	\$3,042,355	\$3,042,355

provided further that the funds shall not be transferred for any other purpose; and provided further that the department shall submit a detailed report to the legislature of all expenditures no later than twenty days prior to the convening of the 1995 legislative session.”

(94) By adding a new section to read as follows:

“SECTION 115.1. Provided that of the general fund appropriation for income assessment and audit (TAX 102), the sum of \$97,800 for fiscal year 1994-1995 shall be used for the salaries of 3.0 field auditor positions.”

(95) By adding a new section to read as follows:

“SECTION 115.2. Provided that of the general fund appropriation for income assessment and audit (TAX 102), the sum of \$180,636 for fiscal year 1994-1995 shall be used for the salaries of 2.0 clerical positions and other project expenses for the purpose of generating additional revenues; provided further that the department shall submit a report on collection data activities including the use of authorized funds and the status and location of the positions authorized; and provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the regular session of 1995.”

(96) By adding a new section to read as follows:

“SECTION 115.3. Provided that of the general fund appropriation for tax collection and enforcement (TAX 103), the sum of \$500,000 for fiscal year 1994-1995 shall be expended for personal services for salaries of 22.0 permanent auditor positions for the collection of delinquent taxes.”

(97) By amending section 119 to read as follows:

“SECTION 119. Provided that of the general fund appropriation for financial administration division (BUF 115), the sum of \$338,315,454 for fiscal year 1993-1994 and the sum of \$355,554,379 for fiscal year 1994-1995 shall be used only for the following purposes:

<u>Purpose</u>	<u>FY 1993-1994</u>	<u>FY 1994-1995</u>
Interest and Principal on general obligation bonds	\$336,715,454	\$351,354,379
Bond Underwriter's Fee	\$1,600,000	\$1,600,000
Arbitrage rebate requirements		\$2,600,000

provided further that the funds shall not be transferred for any other purpose; and provided further that the department shall submit a detailed report to the legislature of all expenditures no later than twenty days prior to the convening of the 1994 and 1995 regular sessions.”

(98) By amending Section 121 to read as follows:

“SECTION 121. Provided that of the general fund appropriation for retirement (BUF 141), the sum of \$272,384,078 in fiscal year 1993-94 and the sum of \$202,602,115 for fiscal year 1994-95 shall be used only for pension accumulation, minimum pension, pensioner's bonus, and social security; provided further that the funds shall not be transferred for any other purpose; and provided further that the department shall submit to the legislature a detailed report of all expenditures no later than twenty days prior to the convening of the 1994 and 1995 regular sessions.”

(99) By adding a new section to read as follows:

“SECTION 123.1. Provided that of the general fund appropriation for work force attraction, selection, classification, and effectiveness (PER 102), the sum of \$100,000 for fiscal year 1994-1995 shall be allocated to the workers compensation division for the following:

- (1) hiring a consultant to design, develop, and implement a return-to-work program for the State;

- (2) hiring a consultant to conduct a feasibility study for a medical review panel;

provided further that the department of personnel services shall submit a report on the progress of the program's effort to implement a return-to-work program and a medical review panel as well as a copy of each of the aforementioned consultant studies to the legislature no later than twenty days prior to the convening of the 1995 regular session."

- (100) By adding a new section to read as follows:

"SECTION 125.1. The department of accounting and general services shall prepare a plan to reduce total expenditures for office leasing (AGS 223), for commercial property leased to the state by ten percent from fiscal year 1993-1994 levels; provided further that the department shall attempt to implement the aforementioned plan; and provided further that the department shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 1995."

- (101) By adding a new section to read as follows:

"SECTION 126.1. Provided that of the general fund appropriation for construction (AGS 221), the sum of \$100,000 for fiscal year 1994-1995 shall be expended to hire a private consultant selected by the office of the auditor, to develop cost containment measures relating to the capitol renovation project; provided further that this report shall include, but not be limited to:

- (1) all remaining costs and related costs required for the completion of the capitol renovation project;
- (2) all related costs associated with the relocation of the legislature, lieutenant governor's office and the governor's office to the capitol;
- (3) identification of those service agencies and executive branch offices that could, to the extent practicable, remain in the state office tower, capitol center, or the Hemmeter building;
- (4) development of a cost containment plan to minimize and/or eliminate future expenses related to the capitol renovation not identified in the report;

and provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the 1995 regular session."

- (102) By adding a new section to read as follows:

"SECTION 126.2. Provided that of the general fund appropriation to city and county of Honolulu (SUB 201), the sum of \$125,000 for fiscal year 1994-1995 shall be used for the automatic external defibrillator program."

SECTION 5. Part IV, Act 289, Session Laws of Hawaii 1993, is amended by amending Section 127 to read as follows:

"SECTION 127. CAPITAL IMPROVEMENT PROGRAM PROJECTS AUTHORIZED. The sums of money appropriated or authorized in Part II of this Act for the capital improvements program shall be expended for the projects listed below. Accounting of the appropriations by the department of accounting and general services shall be based on the projects listed in this section. Several



related or similar projects may be combined into a single project, if such combination is advantageous or convenient for implementation; provided further that the total cost of the project 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.)

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>A. ECONOMIC DEVELOPMENT</b>							
<b>BED102 - COMMERCE AND INDUSTRY</b>							
1.		FIB861 DIAMOND HEAD FILM STUDIO, OAHU					
		CONSTRUCTION FOR A SOUNDSTAGE, ADMINISTRATION BUILDING, CONSTRUCTION MILL, AND LANDSCAPING FOR THE FILM FACILITY.					
		CONSTRUCTION		5,500			
		TOTAL FUNDING	BED	5,500C			C
2.		MALAMA CULTURAL PARK, MOLOKAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE MALAMA CULTURAL PARK.					
		DESIGN		10			
		CONSTRUCTION		989			
		EQUIPMENT		1			
		TOTAL FUNDING	BED	1,000C			C
<b>BED113 - STATE TOURISM OFFICE</b>							
2A.		CONVENTION CENTER FACILITY, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE CONVENTION CENTER FACILITY. PROJECT TO INCLUDE ON AND OFF SITE IMPROVEMENTS; GROUND IMPROVEMENTS; DRAINAGE; PARKING; UTILITIES; FURNISHINGS AND OTHER NECESSARY APPURTENANCES. FUNDS NOT NEEDED IN A COST ELEMENT MAY BE USED IN ANOTHER.					
		PLANS				1,000	
		LAND				1,000	
		DESIGN				1,000	
		CONSTRUCTION				346,000	
		EQUIPMENT				1,000	
		TOTAL FUNDING	BED		B	350,000B	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>AGR131 - ANIMAL QUARANTINE</b>							
2B.	AQS-01	ANIMAL QUARANTINE STATION, RENOVATIONS AND IMPROVEMENTS, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE ANIMAL QUARANTINE STATION RENOVATIONS TO ADD, REPLACE, AND/OR RENOVATE ANIMAL KENNELS, IMPROVE INFRASTRUCTURE, NEW TEAMLEADER WORKSHEDS, RENOVATE LIGHTING AND PUBLIC ADDRESS SYSTEMS, IMPROVE LANDSCAPING, RENOVATE SEWAGE TREATMENT PLANT, BACKUP GENERATOR, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN					1
		CONSTRUCTION					448
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		450C
<b>AGR132 - ANIMAL DISEASE CONTROL</b>							
3.		LIVESTOCK EXPORT/STAGING AND IMPORT/QUARANTINE FACILITIES, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR A LIVESTOCK EXPORT/STAGING AND IMPORT/QUARANTINE FACILITY IN PANAWEA, HAWAII, AND MAUI.					
		PLANS				25	
		DESIGN				25	
		CONSTRUCTION				50	
		TOTAL FUNDING	AGS		100C		C
3A.		LIVESTOCK EXPORT/STAGING AND IMPORT/QUARANTINE FACILITIES, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A LIVESTOCK EXPORT/STAGING AND IMPORT/QUARANTINE FACILITY ON MAUI.					
		DESIGN					1
		CONSTRUCTION					58
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		60C
<b>AGR141 - AGRICULTURAL RESOURCE MANAGEMENT</b>							
4.		PANAWEA PRODUCE PROCESSING AND MARSHALLING FACILITY, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		FOR A PRODUCE PROCESSING AND MARSHALLING FACILITY TO INCLUDE GRADING, UTILITIES CONNECTION, PAVING, SECURITY FENCING, AND OTHER RELATED WORK.					
		DESIGN			1		
		CONSTRUCTION			498		
		EQUIPMENT			1		
		TOTAL FUNDING	AGR		500C		C
4A.	950001	KUALAPUU RESERVOIR OUTLET REPLACEMENT AND MISCELLANEOUS IMPROVEMENTS, MOLOKAI					
		PLANS, DESIGN, AND CONSTRUCTION FOR A RESERVOIR OUTLET TO REPLACE AN EXISTING OUTLET AND STRAINER STATION, TOGETHER WITH OTHER NECESSARY IMPROVEMENTS. PROJECT TO INCLUDE APPURTENANT WORK WHICH MAY BECOME APPARENT UPON LOWERING THE WATER LEVEL AND INSPECTING EXISTING OUTLET.					
		PLANS					5
		DESIGN					10
		CONSTRUCTION					47
		TOTAL FUNDING	AGR			C	12C
			AGR			W	50W
4B.	930004	ACCESS ROAD RELOCATION, MOLOKAI IRRIGATION SYSTEM, MOLOKAI					
		PLANS, DESIGN, AND CONSTRUCTION FOR ACCESS ROAD REPLACEMENT, INCLUDING DRAINAGE IMPROVEMENTS AND APPURTENANT WORK.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					28
		TOTAL FUNDING	AGR			W	30W
<b>AGR192 - GENERAL ADMINISTRATION FOR AGR</b>							
5.	VL-01	HEALTH AND SAFETY REQUIREMENTS, HALAWA, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NECROPSY INCINERATOR TO MEET HEALTH CODES (INCLUDES NEW ROOM FOR INCINERATOR).					
		DESIGN			24		
		CONSTRUCTION			226		
		EQUIPMENT			100		
		TOTAL FUNDING	AGS		350C		C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
5A.		HAMAKUA AGRICULTURAL PARK SUBDIVISION, HAWAII					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ON AND OFF SITE IMPROVEMENTS FOR THE DEVELOPMENT OF AN AGRICULTURAL PARK SUBDIVISION AT HAMAKUA, HAWAII.					
		PLANS					200
		LAND					1
		DESIGN					532
		CONSTRUCTION					500
		EQUIPMENT					1
		TOTAL FUNDING	AGR		C		1,234 C
5B.		KAUAI AGRICULTURAL PARK SUBDIVISION, KAUAI					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ON AND OFF SITE IMPROVEMENTS FOR THE DEVELOPMENT OF AN AGRICULTURAL PARK SUBDIVISION AT KEKAHA, KAUAI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					1
		LAND					1
		DESIGN					1
		CONSTRUCTION					3,007
		EQUIPMENT					1
		TOTAL FUNDING	AGR		C		411 C
			AGR		N		2,600 N
5C.		LANAI AGRICULTURAL PARK, LANAI					
		PLANS, DESIGN, AND CONSTRUCTION FOR AN AGRICULTURAL PARK ON LANAI.					
		PLANS					1
		DESIGN					28
		CONSTRUCTION					1
		TOTAL FUNDING	AGR		C		30 C
5D.		KAMUELA COOLING PLANT, HAWAII					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS AT THE KAMUELA COOLING PLANT.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					38
		EQUIPMENT					45
		TOTAL FUNDING	AGR		C		85 C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
5E.		MEAT PROCESSING FACILITY, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS FOR THE MEAT PROCESSING FACILITY IN HONOLULU.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					82
		EQUIPMENT					1
		TOTAL FUNDING	AGR		C		85C
<b>LNR153 - COMMERCIAL FISHERIES AND AQUACULTURE</b>							
5F.		C36 LARGE-SCALE POND RESEARCH, TRAINING AND DEMONSTRATION FACILITY, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A POND RESEARCH FACILITY TO PROVIDE BETWEEN 15 TO 50 ACRES OF VARIOUS SIZED PONDS UP TO ONE ACRE IN SIZE WITH REQUIRED EQUIPMENT AND PLUMBING. TO INCLUDE ACQUISITION OF LAND BY FEE SIMPLE PURCHASE OR LEASE. FACILITY TO CONSIST OF CLASSES, LABS, DORMS, FEED AREA, MECHANICAL AND MAINTENANCE AREAS. FACILITY TO REQUIRE FRESH, BRACKISH, AND SALT WATER.					
		PLANS					1
		LAND					10
		DESIGN					1
		CONSTRUCTION					644
		EQUIPMENT					144
		TOTAL FUNDING	LNR		C		800C
<b>BED120 - ENERGY DEVELOPMENT AND MANAGEMENT</b>							
6.		P90006 BIOMASS GASIFICATION AND GAS-CLEANUP RESEARCH PLANT, MAUI					
		CONSTRUCTION FOR A PRECOMMERCIAL BIOMASS GASIFICATION AND GAS-CLEANUP RESEARCH PLANT ON MAUI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION			16,000		2,000
		TOTAL FUNDING	BED		2,000C		2,000C
			BED		9,000N		N
			BED		5,000R		R
7.		NELH11 NELHA INFRASTRUCTURE IMPROVEMENTS, HAWAII					
		PLANS, DESIGN, CONSTRUCTION, AND					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		EQUIPMENT FOR INFRASTRUCTURE UPGRADES AND SITE IMPROVEMENTS, SEAWATER INTAKE AND DISTRIBUTION SYSTEMS (INCLUDING PIPELINES), PARKING AREAS AND BEACH PARK INFRASTRUCTURE, AND LABORATORY BUILDING NO. 3.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			997		
		EQUIPMENT			1		
		TOTAL FUNDING	BED		350B		B
			BED		650C		C
8.		SPARK M. MATSUNAGA RENEWABLE ENERGY AND OCEAN TECHNOLOGY CENTER, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE SPARK M. MATSUNAGA LABORATORY IN THE DEVELOPMENT OF RENEWABLE ENERGY AND OCEAN TECHNOLOGY RESEARCH.					
		PLANS			150		
		DESIGN			150		
		CONSTRUCTION			900		
		TOTAL FUNDING	BED		1,200C		C
8A.		NELH10 OFFSHORE SEAWATER PIPELINES, HAWAII					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TWO OFFSHORE SEAWATER PIPELINES AND RELATED PUMP STATIONS TO SUPPLY OTEC PLANT(S) AND OTHER OCEAN-RELATED INDUSTRIES WITH UP TO 35,000 GALLONS PER MINUTE FOR EACH OF THE SEAWATER FLOWS, BOTH WARM AND COLD, FOR THE TENANTS OF NELHA.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					7,797
		EQUIPMENT					1
		TOTAL FUNDING	BED			E	7,800E
<b>LNR141 - WATER AND LAND DEVELOPMENT</b>							
9.		J32 WAIMANALO WASTEWATER TREATMENT PLANT, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS AT THE WAIMANALO WASTEWATER TREATMENT PLANT TO MEET DEPARTMENT OF HEALTH'S STATE WATER QUALITY STANDARDS.					
		PLANS			50		
		DESIGN			100		
		CONSTRUCTION			1,000		
		TOTAL FUNDING	LNR		1,150C		C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
10A.	G91	SCADA SYSTEM AND PLANT AUTOMATION, DEMONSTRATION DESALTING PLANT, OAHU					
		PLANS AND DESIGN FOR TELEMETERING, CONTROL SYSTEM, AND OTHER INCIDENTAL AND RELATED WORK.					
		PLANS DESIGN					5
		TOTAL FUNDING	LNR		C		40
							45C
10B.	J36	LEEWARD POTABLE WATER WELL, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A POTABLE WATER WELL AND ITS DEVELOPMENT, TO INCLUDE CASING INSTALLATION, PUMP TESTING, PUMP CONTROLS, AND OTHER INCIDENTAL AND RELATED WORK.					
		PLANS DESIGN					10
		CONSTRUCTION					40
		TOTAL FUNDING	LNR		C		500
							550C

B. EMPLOYMENT

LBR903 - OFFICE OF COMMUNITY SERVICES

1.	HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL, HAWAII						
	DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE CONSTRUCTION OF A FACILITY FOR THE HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.						
	DESIGN						1
	CONSTRUCTION						2,498
	EQUIPMENT						1
	TOTAL FUNDING	LBR					2,500C
2.	MAUI ECONOMIC OPPORTUNITY, MAUI						
	DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE MAUI ECONOMIC OPPORTUNITY BUILDING RENOVATION AND RELOCATION. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.						
	DESIGN						43
	CONSTRUCTION						295
	EQUIPMENT						1
	TOTAL FUNDING	LBR					339C
3.	KAPOLEI CHILD CARE FACILITY, OAHU						

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW CHILD CARE FACILITY AT KAPOLEI, TO BE EXPENDED BY SEAGULL SCHOOLS, INC. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		DESIGN			1		
		CONSTRUCTION			998		
		EQUIPMENT			1		
		TOTAL FUNDING	LBR		1,000C		C
3A.		OPPORTUNITIES FOR THE RETARDED TRAINING FACILITY, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE OPPORTUNITIES FOR THE RETARDED TRAINING FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		DESIGN					1
		CONSTRUCTION					1,498
		EQUIPMENT					1
		TOTAL FUNDING	LBR			C	1,500C
3B.		CENTER FOR EMPLOYMENT TRAINING WITH CHILDCARE DEVELOPMENT, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE CENTER FOR EMPLOYMENT TRAINING WITH CHILDCARE DEVELOPMENT FOR THE HAWAII HUMAN DEVELOPMENT CORPORATION. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					497
		EQUIPMENT					1
		TOTAL FUNDING	LBR			C	500C
<b>C. TRANSPORTATION FACILITIES</b>							
<b>TRN102 - HONOLULU INTERNATIONAL AIRPORT</b>							
1.		A10 HIA ROADWAYS AND PARKING, OAHU					
		CONSTRUCTION FOR ROADS AND PARKING AREAS INCLUDING GROUND AND ELEVATED STRUCTURES AND EXIT PLAZA FOR OVERSEAS AND INTERISLAND TERMINALS AND SUPPORT AREAS. ALTERATIONS TO EXISTING ROADS AND PARKING FACILITIES, NEW PARKING STRUCTURE, RELOCATION OF EXISTING TENANTS, AND OTHER MISCELLANEOUS					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION					2,315
		TOTAL FUNDING	TRN		E		1,815E
			TRN		N		500N
2.	A11	HIA INTERISLAND COMPLEX, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INTER-ISLAND COMPLEX INCLUDING BLDGS, APRONS AND TAXIWAYS, ROADWAYS, PARKING AND OTHER MISC IMPROVEMENTS. RELOCATION OF EXISTING INTERISLAND MAINTENANCE, CARGO AND ADMIN OFFICES. ALTERATIONS TO EXISTING BLDGS, APRONS, ROADWAYS AND PARKING. INSTALL FURNITURE, LANDSCAPING, AND MISC EQUIPMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		918			
		CONSTRUCTION		13,500			15,550
		TOTAL FUNDING	TRN	11,918B			13,050B
			TRN	1,000E			E
			TRN	1,500N			2,500N
3.	A23	HIA AIRFIELD IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO AIRFIELD FACILITIES INCLUDING TAXIWAYS, RUNWAYS, SIGNS, ENGINE RUN UP PAD, SERVICE ROADS, SAFETY AREAS, LIGHTING SYSTEMS, EMERGENCY GENERATOR, DRAINAGE IMPROVEMENTS, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			26		9,970
		CONSTRUCTION					9,470E
		TOTAL FUNDING	TRN		26E		500N
			TRN		N		
4.	A30	ELECTRICAL SYSTEM IMPROVEMENTS, HONOLULU INTERNATIONAL AIRPORT, OAHU					
		CONSTRUCTION FOR THE MODIFICATION OF ELECTRICAL SYSTEMS AT HONOLULU INTERNATIONAL AIRPORT, CONSISTING OF SWITCH GEARS, DISTRIBUTION SYSTEMS, TRANSFORMER STATIONS, EMERGENCY GENERATOR SYSTEM, AND OTHER RELATED FACILITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		CONSTRUCTION		13,235			
		TOTAL FUNDING	TRN	11,735E			E
			TRN	1,500N			N
5.	A31	ENERGY CONTROL SYSTEM, HONOLULU INTERNATIONAL AIRPORT, OAHU					
		CONSTRUCTION FOR THE INSTALLATION, ALTERATION, AND EXPANSION OF FACILITIES TO MONITOR AND CONTROL VARIOUS UTILITY AND SUPPORT SYSTEMS AT HONOLULU INTERNATIONAL AIRPORT.					
		CONSTRUCTION		2,022			
		TOTAL FUNDING	TRN	2,022E			E
6.	A32	SECURITY SYSTEM IMPROVEMENTS, HONOLULU INTERNATIONAL AIRPORT, OAHU					
		CONSTRUCTION FOR SECURITY SYSTEM EXTENSION AND IMPROVEMENTS, INCLUDING WIRING SYSTEMS, SUPPORTING COMPUTERS AND SOFTWARE, POWER SUPPLIES, BUILDING MODIFICATIONS, AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		4,322			
		TOTAL FUNDING	TRN	3,822E			E
			TRN	500N			N
7.	A33	PUBLIC ADDRESS SYSTEM IMPROVEMENTS, HONOLULU INTERNATIONAL AIRPORT, OAHU					
		CONSTRUCTION FOR THE INSTALLATION, ALTERATION, AND EXPANSION OF THE PUBLIC ADDRESS SYSTEM AT THE HONOLULU INTERNATIONAL AIRPORT. PROJECT INCLUDES THE UPGRADE AND EXTENSION OF EXISTING SYSTEMS AND THE INSTALLATION OF NEW SYSTEMS IN SUPPORT OF THE TERMINAL EXPANSION PLANNED AND CURRENTLY UNDER CONSTRUCTION.					
		CONSTRUCTION		4,595			
		TOTAL FUNDING	TRN	4,595E			E
8.	A34	FIRE ALARM SYSTEM IMPROVEMENTS, HONOLULU INTERNATIONAL AIRPORT, OAHU					
		CONSTRUCTION FOR THE EXTENSION OF FIRE ALARM SYSTEMS, INCLUDING ALARM CIRCUITS, CONTROL PANELS, POWER SUPPLIES, AND OTHER RELATED EQUIPMENT.					
		CONSTRUCTION		1,390			
		TOTAL FUNDING	TRN	1,390E			E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
9.	A35	SIGNAGE AND GRAPHIC IMPROVEMENTS, HONOLULU INTERNATIONAL AIRPORT, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION AND UPGRADE OF SIGNAGE AND GRAPHICS AT HONOLULU INTERNATIONAL AIRPORT COMPLEX, INCLUDING TERMINAL, SUPPORT BUILDINGS AND STRUCTURES, AIRFIELD AND ROADWAYS.					
		DESIGN			450		
		CONSTRUCTION			2,300		
		TOTAL FUNDING	TRN		2,750E		E
10.	A37	AIRPORT SYSTEMS IMPROVEMENTS AT HIA, OAHU					
		CONSTRUCTION FOR SYSTEM IMPROVEMENTS INCLUDING ENERGY MANAGEMENT, SIGNS, FLIGHT INFORMATION, FIRE ALARM, SECURITY, OPERATIONAL CONTROLS, LOADING BRIDGES, UTILITIES, RAMP AIR, FUELING, ELECTRICAL DISTRIBUTION, AIR CONDITIONING, EMERGENCY POWER, AND OTHER MISC IMPROVEMENTS. IMPROVE OPERATIONAL AND ENERGY EFFICIENCY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION			4,470		
		TOTAL FUNDING	TRN		3,970E		E
			TRN		500N		N
11.	A41	HIA TERMINAL MODIFICATIONS, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO FACILITIES INCLUDING GATES AND HOLDROOMS, AIRCRAFT PARKING APRONS, BUILDINGS, PARKING, ROADS, AIR CARGO COMPLEX, SIGNS, FURNISHINGS, WALKWAYS, CEILING, LANDSCAPING, RELOCATE EXISTING TENANTS, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			15,995		14,633
		CONSTRUCTION			66,068		2,355
		TOTAL FUNDING	TRN		78,563E		14,488E
			TRN		3,500N		2,500N
12.	A43	SERVICE SUPPORT FACILITIES AT HIA, OAHU					
		DESIGN FOR BUILDINGS, ROADS, PARKING, UTILITIES, APRONS, LANDSCAPING, TELEPHONE, NON-POTABLE WATER, LEASE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		LOTS, TAXIWAY, AIRCARGO, AIRCRAFT MAINTENANCE, GENERAL AVIATION, HELICOPTER, AIR TAXI, AIRCRAFT FUELING, WASTE DISPOSAL, DRAINAGE IMPROVEMENTS, HANGARS, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		1,550			
		TOTAL FUNDING	TRN	1,450E			E
			TRN	100N			N
12A.		INTERNATIONAL ARRIVALS AREA, HIA OVERSEAS TERMINAL COMPLEX, OAHU					
		DESIGN AND CONSTRUCTION FOR THE RENOVATION OF THE EXISTING INTERNATIONAL ARRIVALS AREA.					
		DESIGN				1,500	
		CONSTRUCTION				13,500	
		TOTAL FUNDING	TRN		E	15,000E	
12B.		INTRA-TERMINAL TRANSPORTATION SYSTEM AT HIA, OAHU					
		PLANS AND DESIGN FOR THE INTRA-TERMINAL TRANSPORTATION SYSTEM TO FACILITATE THE MOVEMENT OF PASSENGERS THROUGH AND ABOUT HONOLULU INTERNATIONAL AIRPORT.					
		PLANS					I
		DESIGN				1,875	
		TOTAL FUNDING	TRN		E	1,876E	
<b>TRN111 - HILO INTERNATIONAL AIRPORT</b>							
13.		B10 HILO INTERNATIONAL AIRPORT IMPROVEMENTS, HAWAII					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AND MODIFICATIONS TO BUILDINGS, ROADS, PARKING, UTILITIES, TAXIWAYS, APRONS, CARGO AND GENERAL AVIATION FACILITIES, LEASE LOTS, HELICOPTER FACILITIES, AND OTHER MISC IMPROVEMENTS. RELOCATION OF TENANTS AND SOUND ATTENUATE THE WAIAKEA HEALTH CENTER. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN				530	
		CONSTRUCTION				5,480	
		TOTAL FUNDING	TRN			5,510B	B
			TRN			500N	N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)				
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F	
13A.		HAWAII AVIATION TRAINING CENTER - TEMPORARY FACILITIES, HAWAII						
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TEMPORARY FACILITIES FOR THE HAWAII AVIATION TRAINING CENTER. PROJECT WILL RENOVATE EXISTING UNUSED OVERSEAS TERMINAL AREA AND/OR CONSTRUCT NEW BUILDINGS, CLASSROOMS, SIMULATOR LABORATORY, OFFICES, COMPUTERIZED INSTRUCTIONAL SYSTEMS, FURNITURE, AND APPURTENANCES.						
		DESIGN					216	
		CONSTRUCTION					2,827	
		EQUIPMENT					453	
		TOTAL FUNDING	TRN		E		3,496E	
<b>TRN114 - KE-AHOLE AIRPORT</b>								
14.		C03 KEAHOLE AIRPORT IMPROVEMENTS, HAWAII						
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO FACILITIES TO INCLUDE TERMINAL EXPANSION, BUILDINGS, ROADS, PARKING, APRONS, RUNWAYS, TAXIWAYS, LEASE LOTS, GENERAL AVIATION FACILITIES, UTILITIES, LANDSCAPING, FURNITURE, AND OTHER MISC IMPROVEMENTS. ALTERATIONS TO EXISTING FACILITIES AND RELOCATION OF TENANTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.						
		DESIGN					2,670	
		CONSTRUCTION			314		41,481	
		TOTAL FUNDING	TRN		314B		1,020B	
			TRN		E		43,031E	
			TRN		N		100N	
<b>TRN131 - KAHULUI AIRPORT</b>								
15.		D04 KAHULUI AIRPORT EXPANSION, MAUI						
		DESIGN AND CONSTRUCTION FOR ADDITIONS AND ALTERATIONS TO BUILDINGS, ROADS, PARKING, APRONS, NEW TERMINAL, TAXIWAYS, RUNWAYS, LANDSCAPING, FURNITURE, SITE WORK, CARGO TERMINAL, OFFSITE DRAINAGE, UTILITIES, ACCESS ROAD, RELOCATE CONTROL TOWER, RELOCATE TENANTS, BUFFER ZONE IMPROVEMENTS, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.						
		DESIGN					1,296	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		CONSTRUCTION		13,633		49,148	
		TOTAL FUNDING	TRN	14,429B		18,000B	
			TRN		E	27,148E	
			TRN	500N		4,000N	
16.	D08	SERVICE SUPPORT FACILITIES AT KAHULUI AIRPORT, MAUI					
		DESIGN AND CONSTRUCTION FOR BUILDINGS, ROADS, PARKING, APRONS, TAXIWAYS, LEASE LOTS, CARGO TERMINAL, HELIPADS, AIRLINE MAINTENANCE FACILITIES, FUEL STORAGE SITE, GENERAL AVIATION FACILITIES, UTILITIES, FLIGHT KITCHEN, ARFF FACILITIES, AIR TOUR FACILITIES, PARK, LANDSCAPING, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		1,160		470	
		CONSTRUCTION		7,150		10,118	
		TOTAL FUNDING	TRN	7,310B		8,588B	
			TRN	1,000N		2,000N	
17.	D10	KAHULUI AIRFIELD IMPROVEMENTS, MAUI					
		DESIGN AND CONSTRUCTION FOR EXTENSION TO EXISTING RUNWAY AND TAXIWAYS INCLUDING SITEWORK, PAVING, PAINTING, ELECTRICAL, STRENGTHEN EXISTING PAVEMENT, SERVICE ROADS, AIRCRAFT PARKING APRONS, ALTERATION OR RELOCATION OF EXISTING FACILITIES AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		455			
		CONSTRUCTION		19,490			
		TOTAL FUNDING	TRN	17,945E			E
			TRN	2,000N			N
<b>TRN161 - LIHUE AIRPORT</b>							
18.	E03	LIHUE AIRPORT COMPLEX, KAUAI					
		DESIGN AND CONSTRUCTION FOR AIRPORT FACILITIES, TO INCLUDE BUILDINGS, ROADS, PARKING, UTILITIES, AIRCRAFT APRONS, TAXIWAYS, RUNWAYS, CARGO TERMINAL, LEASE LOTS AND HANGARS, ALTERATION TO EXISTING FACILITIES, HELIPORT FACILITIES, AND OTHER MISCELLANEOUS IMPROVEMENTS. RELOCATION OF TENANTS AND MODIFICATION					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		TO EXISTING FACILITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		1,535		500	
		CONSTRUCTION		15,980		3,000	
		TOTAL FUNDING	TRN	15,415B			B
			TRN		E	3,500E	
			TRN	2,100N			N

TRN195 - AIRPORTS ADMINISTRATION

19. F04 AIRPORT PLANNING, STATEWIDE

PLANS FOR THE PROVISION OF BASIC DATA AND INFORMATION FOR PROPER PLANNING, PRELIMINARY DESIGNS, SPECIAL ENGINEERING, ARCHITECTURAL, ENVIRONMENTAL, NOISE COMPATIBILITY, AND SPECIAL STUDIES FOR STATEWIDE SYSTEM OF AIRPORTS AND CONTINUE REVIEW AND UPDATING MASTER PLANS AND NOISE COMPATIBILITY PROGRAM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

PLANS		1,545		1,225
TOTAL FUNDING	TRN	1,445E		1,125E
	TRN	100N		100N

20. F06 LAND ACQUISITION, STATEWIDE

PLANS AND LAND ACQUISITION FOR AIRPORT FACILITIES AND LEASE RIGHTS FOR STATEWIDE AIRPORTS.

PLANS				1
LAND		13,000		329
TOTAL FUNDING	TRN	13,000E		330E

21. F08 AIRPORT IMPROVEMENTS, STATEWIDE

DESIGN AND CONSTRUCTION FOR MISC IMPROVEMENTS AT VARIOUS AIRPORTS. IMPROVEMENTS FOR SAFETY AND CERTIFICATION REQUIREMENTS, AND OPERATIONAL EFFICIENCY, INCLUDING FIRE ALARM, FLIGHT INFORMATION, COMMUNICATIONS, SECURITY, ENERGY MONITORING, WEATHER OBSERVING & AIRPORT OPERATIONS SYSTEMS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

DESIGN		180		200
CONSTRUCTION		3,695		3,000

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		TOTAL FUNDING	TRN TRN	3,375E 500N		3,200E N	
21A.		MULTI-CULTURAL ENHANCEMENTS TO AIRPORT TERMINALS, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FACILITIES TO REFLECT HAWAII'S MULTI-CULTURAL ENVIRONMENT INCLUDING IMPLEMENTATION OF PROJECTS IDENTIFIED BY THE HAWAII AIRPORTS CULTURAL DEVELOPMENT COMMITTEE AND OTHER RELATED IMPROVEMENTS TO VARIOUS AIRPORT TERMINALS, STATEWIDE.					
		DESIGN				1,500	
		CONSTRUCTION				3,400	
		EQUIPMENT				100	
		TOTAL FUNDING	TRN		E	5,000E	
<b>TRN301 - HONOLULU HARBOR</b>							
22.		J06 CONTAINER FACILITIES AT SAND ISLAND, OAHU					
		DESIGN AND CONSTRUCTION FOR THE DEVELOPMENT OF SAND ISLAND CONTAINER YARD AREAS, PIERS, AND OTHER IMPROVEMENTS.					
		DESIGN				200	
		CONSTRUCTION				3,000	
		TOTAL FUNDING	TRN			200B	B
			TRN			3,000E	E
23.		J20 IMPROVEMENTS TO PIERS 39-40 COMPLEX, HONOLULU HARBOR, OAHU					
		CONSTRUCTION FOR PIERS, YARDS, SHEDS, AND OTHER IMPROVEMENTS AT PIERS 39-40.					
		CONSTRUCTION				20,000	
		TOTAL FUNDING	TRN			20,000E	E
23A.		J02 IMPROVEMENTS TO FACILITIES AT PIERS 19 TO 34 AT HONOLULU HARBOR, OAHU					
		PLANS AND DESIGN FOR IMPROVEMENTS TO PIERS, SHEDS, YARDS, AND OTHER IMPROVEMENTS AT PIERS 19 TO 34.					
		PLANS				350	
		DESIGN				500	
		TOTAL FUNDING	TRN		B	850B	



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>TRN303 - BARBERS POINT HARBOR</b>							
24.	J11	BARBERS POINT HARBOR IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INCREMENTAL DEVELOPMENT OF BARBERS POINT HARBOR, INCLUDING PIERS, YARDS AND SHED FACILITIES, UTILITIES, LAND ACQUISITION, ROADWAYS AND OTHER IMPROVEMENTS.					
		DESIGN				1,000	
		CONSTRUCTION		30,000			
		TOTAL FUNDING	TRN		B	1,000B	
			TRN	30,000E			E
<b>TRN311 - HILO HARBOR</b>							
25.	L10	HILO HARBOR IMPROVEMENTS, HAWAII					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AT HILO HARBOR INCLUDING PIERS, YARDS, SHEDS, UTILITIES, ROADWAYS AND OTHER IMPROVEMENTS.					
		DESIGN					
		CONSTRUCTION		100		750	
		TOTAL FUNDING	TRN	100B			B
			TRN		E	750E	
<b>TRN313 - KAWAIHAE HARBOR</b>							
26.	L05	BARGE TERMINAL IMPROVEMENTS AT KAWAIHAE HARBOR, HAWAII					
		PLANS FOR IMPROVEMENTS TO BARGE TERMINAL PIER, SHED, YARD, UTILITIES, ROADWAYS AND OTHER IMPROVEMENTS.					
		PLANS				300	
		TOTAL FUNDING	TRN	300B			B
<b>TRN331 - KAHULUI HARBOR</b>							
27.	M06	PIER IMPROVEMENTS AT KAHULUI HARBOR, MAUI					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO PIERS, HARBOR DREDGING AND OTHER IMPROVEMENTS.					
		DESIGN				200	
		CONSTRUCTION					3,500
		TOTAL FUNDING	TRN	200B			B
			TRN		E	3,500E	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
28.	M09	KAHULUI HARBOR IMPROVEMENTS, MAUI					
		PLANS, LAND ACQUISITION, AND DESIGN FOR CONTAINER YARD, YARD IMPROVEMENTS, AND OTHER IMPROVEMENTS.					
		PLANS		300			
		LAND		6,300			
		DESIGN				400	
		TOTAL FUNDING	TRN	300B		400B	
			TRN	6,300E			E
<b>TRN341 - KAUNAKAKAI HARBOR</b>							
29.	M07	KAUNAKAKAI HARBOR IMPROVEMENTS, MOLOKAI					
		DESIGN AND CONSTRUCTION FOR LIGHTING OF CAUSEWAY, EXTEND SHED UTILITY IMPROVEMENTS, AND OTHER IMPROVEMENTS.					
		DESIGN		50			
		CONSTRUCTION				300	
		TOTAL FUNDING	TRN	50B		300B	
<b>TRN361 - NAWILIWILI HARBOR</b>							
30.	K01	NAWILIWILI HARBOR IMPROVEMENTS, KAUAI					
		CONSTRUCTION FOR THE DEVELOPMENT OF PIER ONE, INCLUDING IMPROVEMENTS TO THE YARD, SHED, PIER, UTILITIES, AND OTHER IMPROVEMENTS.					
		CONSTRUCTION		12,000		5,000	
		TOTAL FUNDING	TRN	12,000E		5,000E	
31.	K11	NAWILIWILI HARBOR, REPLACEMENT OF DEMOLISHED BUILDINGS, KAUAI					
		DESIGN AND CONSTRUCTION FOR THE RELOCATION AND REPLACEMENT OF STRUCTURES DEMOLISHED BY HURRICANE INIKI.					
		DESIGN		100			
		CONSTRUCTION		900			
		TOTAL FUNDING	TRN	1,000E			E
<b>TRN363 - PORT ALLEN HARBOR</b>							
32.	K12	PORT ALLEN HARBOR, RECONSTRUCTION OF SHED, KAUAI					
		DESIGN AND CONSTRUCTION FOR					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		MODIFICATIONS AND RECONSTRUCTION OF SHED STRUCTURE AND OTHER IMPROVEMENTS NEEDED DUE TO HURRICANE INIKI.					
		DESIGN		200			
		CONSTRUCTION		1,100			
		TOTAL FUNDING	TRN	1,300E			E
<b>TRN351 - KAUMALAPAU HARBOR</b>							
33.	M11	KAUMALAPAU HARBOR IMPROVEMENTS, LANAI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR TRANSIT SHED, PAVING, UTILITIES AND OTHER IMPROVEMENTS.					
		LAND		1			
		DESIGN		150			
		CONSTRUCTION				1,000	
		TOTAL FUNDING	TRN	151B			B
			TRN		E	1,000E	
34.	M12	KAUMALAPAU HARBOR BREAKWATER IMPROVEMENTS, LANAI					
		DESIGN FOR RECONSTRUCTION OF BREAK WATER AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		700			
		TOTAL FUNDING	TRN	200B			B
			TRN	500N			N
<b>TRN395 - HARBORS ADMINISTRATION</b>							
35.	I01	STATEWIDE HARBOR PLANNING, STATEWIDE					
		PLANS FOR CONTINUING HARBOR STUDIES, RESEARCH AND ADVANCE PLANNING OF HARBOR AND TERMINAL FACILITIES ON ALL ISLANDS.					
		PLANS		250		250	
		TOTAL FUNDING	TRN	250B		250B	
36.	I02	STATEWIDE WAVE AND CURRENT MONITORING, STATEWIDE					
		PLANS FOR MONITORING OF WAVES AND CURRENTS AT VARIOUS STATE COMMERCIAL HARBORS.					
		PLANS		400			
		TOTAL FUNDING	TRN	400B			B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
37.	I03	MISCELLANEOUS IMPROVEMENTS TO FACILITIES AT NEIGHBOR ISLAND PORTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO YARD AREAS, SHEDS, PIERS, UTILITIES, WATER AREAS AND OTHER FACILITIES.					
		DESIGN			75		75
		CONSTRUCTION			200		200
		TOTAL FUNDING	TRN		275B		275B
38.	I05	MISCELLANEOUS IMPROVEMENTS TO FACILITIES AT OAHU PORTS, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO YARD AREAS, SHEDS, PIERS, UTILITIES, WATER AREAS AND OTHER FACILITIES.					
		DESIGN			55		60
		CONSTRUCTION			165		170
		TOTAL FUNDING	TRN		220B		230B
<b>TRN501 - OAHU HIGHWAYS</b>							
39.	Q58	INTERSTATE ROUTE H-1, KUNIA INTERCHANGE IMPROVEMENTS, OAHU					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE RECONFIGURATION OF THE KUNIA INTERCHANGE RAMPS, OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND					600
		DESIGN			900		
		CONSTRUCTION					6,000
		TOTAL FUNDING	TRN		900E		858E
			TRN		J		5,742J
40.	Q60	HIGHWAY LIGHTS ON INTERSTATE H-1 FROM WAIAWA TO PALAILAI INTERCHANGES, OAHU					
		CONSTRUCTION OF LIGHTING IMPROVEMENTS ON INTERSTATE ROUTE H-1, WAIAWA INTERCHANGE TO PALAILAI INTERCHANGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION			3,900		
		TOTAL FUNDING	TRN		507E		E
			TRN		3,393J		J

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
41.	R52	CASTLE JUNCTION INTERCHANGE, KOOLAUPOKO, OAHU					
		DESIGN FOR A HIGHWAY INTERCHANGE TO REPLACE THE EXISTING GRADE SEPARATION AT THE INTERSECTION OF KALANIANA'OLE, PALI AND KAMEHAMEHA HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			2,400		
		TOTAL FUNDING	TRN		2,400E		E
42.	S16	RELOCATION OF THE KANE'OE BASEYARD, PHASE II, OAHU					
		CONSTRUCTION FOR A NEW BASEYARD FACILITY TO REPLACE THE EXISTING BASEYARD, PHASE II, IN KANE'OE.					
		CONSTRUCTION			1,004		
		TOTAL FUNDING	TRN		1,004E		E
43.	S18	KAMEHAMEHA HIGHWAY, KIPAPA GULCH TOWARDS MILLANI, SAFETY IMPROVEMENTS, OAHU					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR SAFETY IMPROVEMENTS AT KIPAPA GULCH TO CONTROL HILLSIDE EROSION ONTO KAMEHAMEHA HIGHWAY.					
		LAND			20		
		DESIGN			60		
		CONSTRUCTION			1,200		
		TOTAL FUNDING	TRN		1,280E		E
44.	S131	KALAELOA BOULEVARD TRUCK WEIGHING STATION, OAHU					
		CONSTRUCTION FOR A ROADWAY, INSPECTION AREA, WEIGHT STATION PAD, AND A WEIGHT HOUSE. PROJECT TO INCLUDE FURNISHING AND INSTALLATION OF A WEIGHT SCALE, COMPUTER EQUIPMENT, SIGNALS, SIGNS, AND OTHER APPURTENANCES.					
		CONSTRUCTION					2,000
		TOTAL FUNDING	TRN			E	2,000E
45.	S132	KAMEHAMEHA HIGHWAY, WAIPIO UKA STREET TO KA UKA BOULEVARD, OAHU					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE WIDENING OF KAMEHAMEHA HIGHWAY FROM WAIPIO UKA STREET TO KA UKA BOULEVARD.					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		(SPECIAL FUNDS FROM DUTY FREE)					
		LAND					2,100
		DESIGN					400
		CONSTRUCTION		3,790			
		TOTAL FUNDING	TRN		B		2,500B
			TRN	3,790E			E
46.	S133	PALI HIGHWAY SIDEWALKS, PHILIPPINE CONSULATE TO PUIWA ROAD, OAHU					
		DESIGN AND CONSTRUCTION FOR SIDEWALKS ON PALI HIGHWAY FROM THE PHILIPPINE CONSULATE TO PUIWA ROAD AND ON THE OPPOSITE SIDE OF THE HIGHWAY FROM AHI PLACE TO COUNTRY CLUB ROAD, OAHU.					
		DESIGN			70		
		CONSTRUCTION					710
		TOTAL FUNDING	TRN		70E		710E
47.	S219	HIGHWAY CONNECTOR AT THE ENTRANCE TO HALEIWA AND WAIALUA TOWNS, OAHU					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A HIGHWAY CONNECTOR AT THE ENTRANCE TO HALEIWA AND WAIALUA TOWNS WITH THE HALEIWA BYPASS ROAD.					
		LAND			69		231
		DESIGN			50		
		CONSTRUCTION		1,265			4,235
		TOTAL FUNDING	TRN	1,384E			4,466E
48.	S220	KALANIANAOLE HIGHWAY, ROCK WALL FROM HANAUMA BAY TO SANDY BEACH, OAHU					
		DESIGN AND CONSTRUCTION FOR A ROCK RETAINING/GUARD WALL TO ELIMINATE THE RECURRING PROBLEM OF METAL GUARDRAIL EROSION FROM HANAUMA BAY TO SANDY BEACH AREA.					
		DESIGN			140		
		CONSTRUCTION		1,860			
		TOTAL FUNDING	TRN	2,000E			E
49.	S221	INOAOLE STREAM BRIDGE, KALANIANAOLE HIGHWAY, WAIMANALO, OAHU					
		DESIGN AND CONSTRUCTION FOR THE REPLACEMENT OF THE INOAOLE STREAM BRIDGE ON THE KALANIANAOLE HIGHWAY IN WAIMANALO. DESIGN SHOULD ALLOW FOR FREE SPAN CONSTRUCTION OF THE APERTURE UNDER THE BRIDGE.					
		DESIGN			75		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		CONSTRUCTION		2,000			
		TOTAL FUNDING	TRN	2,075E			E
50.	S222	MALAEKAHANA STREAM BRIDGE, OAHU					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A NEW BRIDGE ON KAMEHAMEHA HIGHWAY AT MALAEKAHANA STREAM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND		250			
		DESIGN		1			
		CONSTRUCTION		2,470			
		TOTAL FUNDING	TRN	694E			E
			TRN	2,027N			N
51.	S224	KAMEHAMEHA HIGHWAY, HIGHWAY LIGHTS, POAMOHO TO WEED CIRCLE, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF HIGHWAY LIGHTS ON KAMEHAMEHA HIGHWAY, FROM POAMOHO TO WEED CIRCLE.					
		DESIGN		200			
		CONSTRUCTION				1,800	
		TOTAL FUNDING	TRN	200E		1,800E	
52.	S225	KAMEHAMEHA HIGHWAY, DRAINAGE IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS BETWEEN DOLE PAVILION AND POAMOHO BRIDGE. PROJECT TO UPGRADE THE DRAINAGE FACILITIES BY IMPROVING THE CUT SLOPE AND CONSTRUCTING LINED GUTTERS.					
		DESIGN		20			
		CONSTRUCTION				180	
		TOTAL FUNDING	TRN	20E		180E	
53.	S226	FARRINGTON HIGHWAY, PILIOKOE BRIDGE TO ALA HEMA STREET, OAHU					
		CONSTRUCTION FOR SAFETY IMPROVEMENTS AND MODIFICATIONS TO FARRINGTON HIGHWAY FROM PILIOKOE BRIDGE TO ALA HEMA STREET.					
		CONSTRUCTION				1,000	
		TOTAL FUNDING	TRN		E	1,000E	
54.	S227	ALA MOANA BOULEVARD, INSTALL DOUBLE RIGHT-TURN LANES, PUNCHBOWL STREET, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN AND CONSTRUCTION FOR THE PROVISION OF DOUBLE RIGHT-TURN LANES FROM PUNCHBOWL STREET ONTO ALA MOANA BOULEVARD.					
		DESIGN			40		
		CONSTRUCTION					250
		TOTAL FUNDING	TRN		40E		250E
55.	S229	KAMEHAMEHA HIGHWAY, DRAINAGE IMPROVEMENTS, SUNSET BEACH, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF DRAINAGE SYSTEM IMPROVEMENTS IN THE VICINITY OF SUNSET BEACH ELEMENTARY SCHOOL. PROJECT TO INCLUDE THE INSTALLATION OF DRAINAGE SYSTEM OF GRATED DROP INTAKES, CULVERTS, PIPE SYSTEM, AND CONCRETE LINED GUTTERS.					
		DESIGN			150		
		CONSTRUCTION					1,350
		TOTAL FUNDING	TRN		150E		1,350E
56.		INTERSECTION IMPROVEMENTS AT FARRINGTON HIGHWAY AND PUHANO STREET, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE INTERSECTION OF FARRINGTON HIGHWAY AND PUHANO STREET. PROJECT TO INCLUDE THE INSTALLATION OF A TRAFFIC SIGNAL SYSTEM.					
		DESIGN			30		
		CONSTRUCTION			370		
		TOTAL FUNDING	TRN		400B		B
57.		HIGHWAY SAFETY IMPROVEMENTS ON FORT WEAVER ROAD, OAHU					
		DESIGN AND CONSTRUCTION FOR HIGHWAY SAFETY IMPROVEMENTS ON FORT WEAVER ROAD BETWEEN PAPIPI ROAD AND NORTH ROAD. PROJECT TO INCLUDE THE INSTALLATION OF FLASHING SCHOOL SPEED LIMIT SIGNS.					
		DESIGN			10		
		CONSTRUCTION			50		
		TOTAL FUNDING	TRN		60B		B
58.		KAMEHAMEHA HIGHWAY, DRAINAGE IMPROVEMENTS, KAHUKU, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF DRAINAGE SYSTEM IMPROVEMENTS IN THE VICINITY OF KAHUKU HIGH SCHOOL. PROJECT TO INCLUDE THE					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		INSTALLATION OF DRAINAGE SYSTEM OF GRATED DROP INTAKES, CULVERTS, PIPE SYSTEM, AND CONCRETE LINED GUTTERS.					
		DESIGN		100			
		CONSTRUCTION				1,000	
		TOTAL FUNDING	TRN	100B		1,000B	
59.		INTERSECTION IMPROVEMENTS AT FARRINGTON HIGHWAY AND MAIPALAOA ROAD, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE INTERSECTION OF FARRINGTON HIGHWAY AND MAIPALAOA ROAD. PROJECT TO INCLUDE THE INSTALLATION OF A TRAFFIC SIGNAL SYSTEM.					
		DESIGN		25			
		CONSTRUCTION		225			
		TOTAL FUNDING	TRN	250B			B
59A.		R30 INTERSTATE H-3, JUNCTION AT H-1 TO KANEOHE MARINE CORPS AIR STATION, OAHU					
		CONSTRUCTION FOR A DIVIDED HIGHWAY FROM JUNCTION H-1 TO KANEOHE MARINE CORPS AIR STATION, OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION				269,304	
		TOTAL FUNDING	TRN		E	37,681E	
			TRN		N	231,623N	
59B.		R63 PUULOA ROAD-KAMEHAMEHA HIGHWAY TO SALT LAKE BOULEVARD, OAHU					
		LAND ACQUISITION AND DESIGN FOR WIDENING THE EXISTING TWO-LANE FACILITY FROM KAMEHAMEHA HIGHWAY TO SALT LAKE BOULEVARD. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND				2,500	
		DESIGN				316	
		TOTAL FUNDING	TRN		B	2,816B	
59C.		S15 KAMEHAMEHA HIGHWAY SHORELINE PROTECTION, OAHU					
		DESIGN AND CONSTRUCTION FOR SHORELINE PROTECTION FOR THOSE AREAS OF KAMEHAMEHA HIGHWAY SUSCEPTIBLE TO OCEAN EROSION DUE TO WAVE ACTION, PARTICULARLY IN THE VICINITY OF KAAAWA, PUNALUU, AND HAUULA, OAHU. THIS PROJECT IS DEEMED NECESSARY					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN					266
		CONSTRUCTION					2,310
		TOTAL FUNDING	TRN		E		2,339E
			TRN		N		2,343N
59D.	S234	FORT WEAVER ROAD LANDSCAPING, OAHU					
		DESIGN AND CONSTRUCTION FOR LANDSCAPING IMPROVEMENTS AND THE INSTALLATION OF AN IRRIGATION SYSTEM FOR FORT WEAVER ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN					100
		CONSTRUCTION					1,000
		TOTAL FUNDING	TRN		E		330E
			TRN		N		770N
59E.	S235	FARRINGTON HIGHWAY IMPROVEMENTS, FORT WEAVER ROAD TOWARDS WAIPAHI HS, OAHU					
		DESIGN AND CONSTRUCTION FOR THE EXTENSION OF LEFT-TURN LANE AT PAIWA STREET AND INSTALLATION OF WHEELCHAIR RAMPS AT VARIOUS LOCATIONS ON FARRINGTON HIGHWAY FROM FORT WEAVER ROAD TOWARDS WAIPAHI HIGH SCHOOL. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN					70
		CONSTRUCTION					450
		TOTAL FUNDING	TRN		E		120E
			TRN		N		400N
59F.	920005	HALAWA CRUSHER ROAD, OAHU					
		DESIGN AND CONSTRUCTION FOR THE WIDENING OF HALAWA CRUSHER ROAD FROM IWAIWA STREET TO ULUNE STREET. PROJECT TO INCLUDE EXCAVATION/EMBANKMENT, CONSTRUCT RETAINING WALLS, DEMOLITION, RECONSTRUCT DRAINAGE SYSTEM, NEW SIGNS AND MARKINGS, ASPHALT PAVING, NEW CURBS AND GUTTERS, RELOCATION OF SPRINKLER SYSTEM, HIGHWAY LIGHTING SYSTEM, LANDSCAPING, AND OTHER RELATED WORK.					
		DESIGN					100
		CONSTRUCTION					1,300
		TOTAL FUNDING	TRN		B		1,400B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
59G.		DRAINAGE IMPROVEMENTS ALONG FARRINGTON HIGHWAY IN MAILI, OAHU					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR DRAINAGE AND OTHER IMPROVEMENTS FROM MAILI STREAM TO ST. JOHN'S ROAD.					
		LAND					1
		DESIGN					69
		CONSTRUCTION					555
		TOTAL FUNDING	TRN		E		625E
59H.		INTERSECTION IMPROVEMENTS AT KING AND KALIHI STREETS, OAHU					
		DESIGN AND CONSTRUCTION FOR INTERSECTION IMPROVEMENTS AT KING AND KALIHI STREETS. IMPROVEMENTS TO INCLUDE THE INSTALLATION OF LEFT TURN SIGNAL LIGHTS IN THE MAUKA AND MAKAI DIRECTION.					
		DESIGN					10
		CONSTRUCTION					90
		TOTAL FUNDING	TRN		B		100B
59I.		LIKELIKE HIGHWAY/H-3 TEMPORARY CONNECTOR ROAD AND ADDITION OF TWO RAMPS, OAHU					
		PLANS FOR THE REPLACEMENT OF THE LIKELIKE HIGHWAY/H-3 TEMPORARY CONNECTOR ROAD AND THE ADDITION OF TWO RAMPS FOR OUTBOUND LIKELIKE HIGHWAY TO OUTBOUND H-3 AND INBOUND H-3 TO INBOUND LIKELIKE HIGHWAY.					
		PLANS					200
		TOTAL FUNDING	TRN		E		200E
59J.		LIKELIKE HIGHWAY TRAFFIC FLOW STUDY, OAHU					
		PLANS FOR THE STUDY OF THE TRAFFIC FLOW IN VICINITY OF LIKELIKE HIGHWAY WHERE KALIHI STREET AND MAKUAHINE STREET MERGE IN KALIHI VALLEY.					
		PLANS					50
		TOTAL FUNDING	TRN		B		50B
59K.		INTERSECTION IMPROVEMENTS AT KALIHI STREET AND NIMITZ HIGHWAY, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF TRAFFIC SIGNALS TO ACCOMMODATE LEFT TURN FROM KALIHI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		STREET TO NIMITZ HIGHWAY. (SPECIAL FUNDS FROM DUTY FREE)					
		DESIGN					10
		CONSTRUCTION					90
		TOTAL FUNDING	TRN		B		100B
59L.		INTERSECTION IMPROVEMENTS AT KAMEHAMEHA HIGHWAY AND KAHUKU HIGH SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR INTER- SECTION IMPROVEMENTS AT KAMEHAMEHA HIGHWAY AND KAHUKU HIGH SCHOOL. PROJECT TO INCLUDE THE INSTALLATION OF TRAFFIC SIGNALS AND OTHER NECESSARY IMPROVEMENTS.					
		DESIGN					30
		CONSTRUCTION					200
		TOTAL FUNDING	TRN		B		230B
59M.		INTERSECTION IMPROVEMENTS AT KAMEHAMEHA HIGHWAY AND WAIMANO HOME ROAD, OAHU					
		LAND ACQUISITION, DESIGN, AND CONSTRU- TION FOR INTERSECTION IMPROVEMENTS AT KAMEHAMEHA HIGHWAY AND WAIMANO HOME ROAD. PROJECT TO INCLUDE AN ADDITIONAL RIGHT LANE FROM WAIMANO HOME ROAD TO KAMEHAMEHA HIGHWAY IN THE EWA DIRECTION AND OTHER IMPROVE- MENTS. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND					10
		DESIGN					50
		CONSTRUCTION					250
		TOTAL FUNDING	TRN		B		310B
59N.		INTERSECTION IMPROVEMENTS AT KEALAHOU STREET AND KALANIANAOLE HIGHWAY, OAHU					
		DESIGN AND CONSTRUCTION FOR INTER- SECTION IMPROVEMENTS AT KEALAHOU STREET AND KALANIANAOLE HIGHWAY. PROJECT TO INCLUDE INSTALLATION OF TRAFFIC SIGNAL LIGHTS AND RELATED IMPROVEMENTS.					
		DESIGN					25
		CONSTRUCTION					225
		TOTAL FUNDING	TRN		B		250B
59O.		PALI HIGHWAY AT NUUANU PALI LOOKOUT ACCESS ROAD, SECURITY GATES, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE INSTALLATION OF SECURITY GATES AT THE NUUANU PALI LOOKOUT ACCESS ROAD AND OTHER RELATED IMPROVEMENTS.					
		LAND DESIGN CONSTRUCTION					1 1 98
		TOTAL FUNDING	TRN		B		100B

TRN511 - HAWAII HIGHWAYS

60. T75 KEAAU-PAHOA ROAD, PUNA, HAWAII

DESIGN AND CONSTRUCTION FOR RECONSTRUCTION OF HIGHWAY FROM HAWAIIAN PARADISE PARK TO VICINITY OF KEONEPOKO HOMESTEADS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

DESIGN			75	
CONSTRUCTION				4,338
TOTAL FUNDING	TRN		32E	998E
	TRN		43N	3,340N

61. T77 GUARDRAIL AND SHOULDER IMPROVEMENTS ON VARIOUS STATE HIGHWAYS, HAWAII

DESIGN AND CONSTRUCTION FOR THE UPGRADE OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING. PROJECT TO INCLUDE THE INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS STATE HIGHWAY LOCATIONS ON HAWAII. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

DESIGN			40	
CONSTRUCTION				1,000
TOTAL FUNDING	TRN		17E	230E
	TRN		23N	770N

62. T79 HAWAII BELT ROAD, DRAINAGE IMPROVEMENTS DISTRICT OF KAU, HAWAII

LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR HYDROLOGIC STUDIES OF DRAINAGE BASINS WHICH CAUSE FLOODING OF HBR, AND SUBSEQUENT DRAINAGE IMPROVEMENTS INCLUDING NEW STRUCTURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND DESIGN CONSTRUCTION		100			50 50 600
		TOTAL FUNDING	TRN	100E			700E
63.		T85 KEALAKEHE PARKWAY AND INTERCHANGE, HAWAII					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A NEW MAUKA-MAKAI ROADWAY FROM MAMALAHOA HIGHWAY TRAVERSING THROUGH KEALAKEHE AND CONNECTING TO QUEEN KAAHUMANU HIGHWAY WITH AN INTERCHANGE. THE ROADWAY WILL CONTINUE MAKAI ALONG THE COAST AND CONNECT TO KAILUA, KONA.					
		LAND DESIGN CONSTRUCTION		2,500 2,598 3,500			
		TOTAL FUNDING	TRN	8,598E			28,000 28,000E
64.		PUAINAKO STREET WIDENING, KOMOHANA ROAD TO KANOELEHUA AVENUE, HAWAII					
		DESIGN AND CONSTRUCTION FOR THE WIDENING OF PUAINAKO STREET, FROM KOMOHANA ROAD TO KANOELEHUA AVENUE.					
		DESIGN CONSTRUCTION			1 2,499		
		TOTAL FUNDING	TRN	2,500E			E
64A.		T64 KEAAU-PAHOA ROAD, KEAAU TOWN SECTION, HAWAII					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A NEW ROADWAY AROUND KEAAU TOWN TO REDUCE TRAFFIC CONGESTION WITHIN THE TOWN. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND DESIGN CONSTRUCTION					2,000 600 3,000
		TOTAL FUNDING	TRN			B	5,600B
64B.		T82 WIDENING OF QUEEN KAAHUMANU HIGHWAY, HAWAII					
		LAND ACQUISITION AND DESIGN FOR THE WIDENING OF QUEEN KAAHUMANU HIGHWAY TO A FOUR-LANE DIVIDED HIGHWAY FROM PALANI ROAD TOWARDS KAWAIHAE INCLUDING PAVED SHOULDERS FOR A BIKE ROUTE.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		(SPECIAL FUNDS FROM DUTY FREE)					
		LAND				2,800	
		DESIGN				1,600	
		TOTAL FUNDING	TRN		B	4,400B	
64C.		MAMALAHOA HIGHWAY, INTERSECTION IMPROVEMENTS AT KONAWAENA HS, HAWAII					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE INSTALLATION OF TRAFFIC SIGNALS AND TO WIDEN/ CHANNELIZE THE INTERSECTION AT MAMALAHOA HIGHWAY AND KONAWAENA HIGH SCHOOL ROAD.					
		LAND				500	
		DESIGN				200	
		CONSTRUCTION				2,000	
		TOTAL FUNDING	TRN		E	2,700E	
<b>TRN531 - MAUI HIGHWAYS</b>							
65.		V42 HALEAKALA HIGHWAY WIDENING, KULA HIGHWAY TO HANA HIGHWAY, MAUI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE WIDENING OF HALEAKALA HIGHWAY FROM 3 TO 4 LANES BETWEEN KULA HIGHWAY TO HANA HIGHWAY. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND				1,000	
		DESIGN				500	
		CONSTRUCTION		6,000		10,000	
		TOTAL FUNDING	TRN		B	11,500B	
			TRN	6,000E			E
66.		V48 GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, MAUI					
		DESIGN AND CONSTRUCTION FOR THE UPGRADE OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING. PROJECT TO INCLUDE THE INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS STATE HIGHWAY LOCATIONS ON MAUI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			1	120	
		CONSTRUCTION		1,400			
		TOTAL FUNDING	TRN	323E		52E	
			TRN	1,078N		68N	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
67.	V49	HONOAPIILANI HIGHWAY ROCKFALL PROTECTION ALONG PALI SECTION, MAUI					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF CHAINLINK DRAPERY TO PREVENT ROCKS FROM FALLING ONTO HIGHWAY.					
		DESIGN			70		
		CONSTRUCTION				800	
		TOTAL FUNDING	TRN		70E	800E	
68.	V52	HANA HIGHWAY, REPLACEMENT OF THREE TIMBER BRIDGES, HAIKU, MAUI					
		CONSTRUCTION FOR THE REPLACEMENT OF THREE TIMBER BRIDGES, KAUPAKALUA BRIDGE, UAOA BRIDGE, AND HOOLAWA BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION			12,000		
		TOTAL FUNDING	TRN		2,761E		E
			TRN		9,239N		N
69.	V53	HONOAPIILANI HIGHWAY, REVETMENT PROTECTION AT LAUNIUPOKO, MAUI					
		CONSTRUCTION FOR THE REVETMENT AT LAUNIUPOKO TO PROTECT A 1,000 FOOT LONG SECTION OF THE HIGHWAY ALONG THE SHORELINE FROM EROSION DUE TO WAVE ACTIVITY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION			1,000		
		TOTAL FUNDING	TRN		500E		E
			TRN		500N		N
70.		INTERSECTION IMPROVEMENTS AT PIILANI HIGHWAY AND LIPOA STREET, MAUI					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE INTERSECTION OF PIILANI HIGHWAY AND LIPOA STREET. PROJECT TO INCLUDE THE INSTALLATION OF A TRAFFIC SIGNAL SYSTEM.					
		DESIGN			30		
		CONSTRUCTION			270		
		TOTAL FUNDING	TRN		300B		B
71.		INTERSECTION IMPROVEMENTS AT KULA HIGHWAY AND OLD KULA ROAD, MAUI					
		DESIGN AND CONSTRUCTION FOR					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		IMPROVEMENTS TO THE INTERSECTION OF KULA HIGHWAY AND OLD KULA ROAD. PROJECT TO INCLUDE THE INSTALLATION OF HIGHWAY LIGHTING.					
		DESIGN			3		
		CONSTRUCTION			17		
		TOTAL FUNDING	TRN		20B		B
72.		INTERSECTION IMPROVEMENTS AT HONOAPILANI HIGHWAY, MAUI					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE INTERSECTION OF HONOAPILANI HIGHWAY AND LOWER HONOAPILANI ROAD. PROJECT TO INCLUDE THE INSTALLATION OF A TRAFFIC SIGNAL SYSTEM.					
		DESIGN			20		
		CONSTRUCTION			280		
		TOTAL FUNDING	TRN		300B		B
73.		MOKULELE HIGHWAY WIDENING, KIHEI TO PUUNENE, MAUI					
		DESIGN AND CONSTRUCTION FOR THE WIDENING OF MOKULELE HIGHWAY TO A FOUR LANE HIGHWAY FROM KIHEI TO PUUNENE.					
		DESIGN			1		
		CONSTRUCTION			14,999		
		TOTAL FUNDING	TRN		15,000E		E
74.		HALEAKALA HIGHWAY, CANE HAUL CROSSING, MAUI					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO HALEAKALA HIGHWAY FOR CANE HAUL CROSSING. PROJECT TO INCLUDE THE INSTALLATION OF TWO TRAFFIC SIGNAL LIGHTS AND OTHER RELATED WORK.					
		DESIGN			1		
		CONSTRUCTION			399		
		TOTAL FUNDING	TRN		400B		B
74A.		V04 HONOAPILANI HIGHWAY WIDENING, KUIHELANI HIGHWAY TO NORTH KIHEI ROAD, MAUI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR WIDENING OF HONOAPILANI HIGHWAY, FROM KUIHELANI HIGHWAY TO MAALAEA HARBOR ENTRANCE, TO A FOUR LANE DIVIDED HIGHWAY TO PROVIDE ADDITIONAL CAPACITY AT THE APPROXIMATE CONVERGENCE OF HONOAPILANI HIGHWAY,					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		SOUTH KIHAI ROAD, NORTH KIHAI ROAD, AND KUIHELANI HIGHWAY. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND				5,900	
		DESIGN				300	
		CONSTRUCTION				5,000	
		TOTAL FUNDING	TRN		B	11,200B	
74B.	V51	HONOAPIILANI HIGHWAY WIDENING AND/OR REALIGNMENT, HONOKOWAI TO PUAMANA, MAUI					
		DESIGN FOR THE WIDENING OF THE EXISTING HIGHWAY AND/OR TO CONSTRUCT A NEW ALIGNMENT FROM HONOKOWAI TO PUAMANA, LAHAINA. (SPECIAL FUNDS FROM DUTY FREE)					
		DESIGN				4,100	
		TOTAL FUNDING	TRN		B	4,100B	
74C.	V54	HONOAPIILANI HIGHWAY, WAIKAPU BRIDGE WIDENING, MAUI					
		CONSTRUCTION FOR THE WIDENING OF WAIKAPU BRIDGE TO PROVIDE FOR A LEFT TURN STORAGE LANE ON HONOAPIILANI HIGHWAY IN WAIKAPU TOWN TO WILIKONA PLACE. (SPECIAL FUNDS FROM DUTY FREE)					
		CONSTRUCTION				825	
		TOTAL FUNDING	TRN		B	825B	
74D.	HANA	HANA HIGHWAY, VICINITY OF MILE POST 14.39, MAUI					
		LAND ACQUISITION, DESIGN, AND CON- STRUCTION FOR ROADWAY AND DRAINAGE IMPROVEMENTS ON HANA HIGHWAY, IN THE VICINITY OF MILE POST 14.39. IMPROVEMENTS TO INCLUDE DRAINAGE IMPROVEMENTS AND/OR A BRIDGE.					
		LAND				100	
		DESIGN				300	
		CONSTRUCTION				2,600	
		TOTAL FUNDING	TRN		E	3,000E	
<b>TRN541 - MOLOKAI HIGHWAYS</b>							
75.	W08	GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, MOLOKAI					
		DESIGN AND CONSTRUCTION FOR THE UPGRADE OF EXISTING DIRT OR SOD					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING. PROJECT TO INCLUDE THE INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS STATE HIGHWAY LOCATIONS ON MOLOKAI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			60		
		CONSTRUCTION					600
		TOTAL FUNDING	TRN		26E		138E
			TRN		34N		462N
76.		MOLOKAI HIGHWAY BEAUTIFICATION, MOLOKAI					
		CONSTRUCTION FOR HIGHWAY BEAUTIFICATION IMPROVEMENTS. PROJECT TO INCLUDE BEAUTIFICATION IMPROVEMENTS TO MAUNALOA HIGHWAY.					
		CONSTRUCTION			100		
		TOTAL FUNDING	TRN		100B		B
<b>TRN561 - KAUAI HIGHWAYS</b>							
77.		X51 GUARDRAIL AND SHOULDER IMPROVEMENTS ON VARIOUS STATE HIGHWAYS, KAUAI					
		DESIGN AND CONSTRUCTION FOR THE UPGRADE OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING. PROJECT TO INCLUDE THE INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS STATE HIGHWAY LOCATIONS ON KAUAI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			100		100
		CONSTRUCTION					2,000
		TOTAL FUNDING	TRN		100E		446E
			TRN		N		1,654N
78.		X100 KUHIO HIGHWAY RETAINING WALLS AT LUMAHAI AND WAINIHA, KAUAI					
		DESIGN AND CONSTRUCTION FOR RETAINING WALLS TO PREVENT SPILLAGE OF THE ROADWAY.					
		DESIGN			150		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		CONSTRUCTION		1,450			
		TOTAL FUNDING	TRN	1,600E			E
78A.	X06	IMPROVEMENTS TO KAUMUALII HIGHWAY, LIHUE TO WEST OF MALUHIA ROAD, KAUAI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE WIDENING OF KAUMUALII HIGHWAY FROM LIHUE TO WEST OF MALUHIA ROAD, IN THE VICINITY OF MILE POST 0.0 TO MILE POST 7.5. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND				1,150	
		DESIGN				800	
		CONSTRUCTION				7,000	
		TOTAL FUNDING	TRN		B	8,950B	
78B.	X07	IMPROVEMENTS TO KUHIO HIGHWAY, HANAMAULU TO KAPAA, KAUAI					
		LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TWO ADDITIONAL LANES BY WIDENING, REALIGNING, AND/OR BYPASSING THE EXISTING HIGHWAY TO INCLUDE A TEMPORARY DETOUR, NECESSARY SIGNAGE, GATES, UTILITIES, AND OTHER MISCELLANEOUS IMPROVEMENTS. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND				1	
		DESIGN				2,750	
		CONSTRUCTION				12,998	
		EQUIPMENT				1	
		TOTAL FUNDING	TRN		B	15,750B	
78C.	X60	INTERSECTION IMPROVEMENTS AT KAUMUALII HIGHWAY AND KOLOA ROAD, KAUAI					
		LAND ACQUISITION AND CONSTRUCTION FOR INTERSECTION IMPROVEMENTS AT KAUMUALII HIGHWAY AND KOLOA ROAD, INCLUDING LEFT TURN AND RIGHT TURN LANES AND TRAFFIC SIGNAL SYSTEM TOGETHER WITH THE ADDITION OF TWO LANES TO LAWAI BRIDGE. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND				350	
		CONSTRUCTION				1,800	
		TOTAL FUNDING	TRN		B	2,150B	
78D.	X63	KAUMUALII HIGHWAY SHORING CAUSEWAY, KAUAI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR INTERSECTION IMPROVEMENTS AT KAUMUALII HIGHWAY, KUHIO HIGHWAY, AND RICE STREET INTERSECTIONS. PROJECT TO INCLUDE REALIGNMENT OF KAUMUALII HIGHWAY, RELOCATION OF UTILITY POLES, DRAINAGE IMPROVEMENTS, AND RECONSTRUCTION OF THE TRAFFIC SIGNALS. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND					1,749
		DESIGN					1
		CONSTRUCTION					1,595
		TOTAL FUNDING	TRN		B		3,345B
78E.	X68	KUHIO HIGHWAY, WIDENING AT WAIKAEA BRIDGE, KAUAI					
		LAND ACQUISITION AND CONSTRUCTION FOR A FOUR LANE BRIDGE AT WAIKAEA STREAM. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND					40
		CONSTRUCTION					800
		TOTAL FUNDING	TRN		B		840B
78F.	X65	PUHI TO KAPAA BYPASS ROAD, KAUAI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A BYPASS ROAD BETWEEN PUHI TO KAPAA. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND					400
		DESIGN					1
		CONSTRUCTION					5,054
		TOTAL FUNDING	TRN		B		5,455B
78G.	KAUMUALII	HIGHWAY IMPROVEMENTS, TEMPORARY BYPASS ROAD, KAUAI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A TEMPORARY BYPASS ROAD VIA KIPU, HULEMALU, AND HALEHAKA ROADS AND KIPU ROAD INTERSECTION AT KAUMUALII HIGHWAY. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND					100
		DESIGN					55
		CONSTRUCTION					1,200
		TOTAL FUNDING	TRN		B		1,355B

TRN595 - HIGHWAYS ADMINISTRATION

79. X98 IMPROVEMENTS TO INTERSECTIONS AND

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
HIGHWAY FACILITIES, STATEWIDE							
DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR TRAFFIC SAFETY. PROJECT TO INCLUDE THE ELIMINATION OF CONSTRUCTIONS ON- AND OFF-SITE, AFFECTING EFFICIENT FLOW OF TRAFFIC ON INTER-STATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.							
		DESIGN			400		400
		CONSTRUCTION			7,800		7,800
		TOTAL FUNDING	TRN		1,966E		1,966E
			TRN		6,234N		6,234N
80.		X99 HIGHWAY PLANNING, STATEWIDE					
PLANS FOR ROAD USE, ROAD LIFE, ECONOMIC STUDIES, RESEARCH AND ADVANCED PLANNING OF FEDERAL-AID AND NON-FEDERAL- AID HIGHWAY PROJECTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.							
		PLANS			4,849		5,099
		TOTAL FUNDING	TRN		1,890E		2,540E
			TRN		2,959N		2,559N
81.		X220 INSTALLATION OF EMERGENCY TELEPHONES AT VARIOUS LOCATIONS, STATEWIDE					
DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF SOLAR POWERED TELEPHONES TO PROVIDE ACCESS TO EMERGENCY TELEPHONES.							
		DESIGN			15		15
		CONSTRUCTION			900		900
		TOTAL FUNDING	TRN		915E		915E
<b>D. ENVIRONMENTAL PROTECTION</b>							
<b>HTH840 - ENVIRONMENTAL MANAGEMENT</b>							
1.		840001 WASTEWATER TREATMENT REVOLVING FUND FOR POLLUTION CONTROL, STATEWIDE					
CONSTRUCTION FOR FUNDS TO MATCH FEDERAL CAPITALIZATION GRANTS FOR WASTEWATER PROJECTS. FUNDS							

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		APPROPRIATED TO BE TRANSFERRED TO WATER POLLUTION CONTROL REVOLVING FUND ESTABLISHED PURSUANT TO CHAPTER 342-D, HRS.					
		CONSTRUCTION		3,900			
		TOTAL FUNDING	HTH	3,900C			C
<b>LNR402 - FORESTS AND WILDLIFE RESOURCES</b>							
1A.		D09 HAWAII BRANCH, DOFAW HILO OFFICE COMPLEX, HAWAII					
		DESIGN FOR AN OFFICE COMPLEX BUILDING AND APPURTENANT FACILITIES TO MEET THE HAWAII BRANCH'S OFFICE SPACE AND PUBLIC SERVICES FACILITY REQUIREMENTS.					
		DESIGN					30
		TOTAL FUNDING	LNR		C		30C
1B.		D68 EMERGENCY POWER GENERATOR, MAUNA LOA, HAWAII					
		DESIGN AND CONSTRUCTION FOR A BACKUP POWER GENERATOR FACILITY TO SUPPORT THE STATE'S RAINBOW MICROWAVE SYSTEM.					
		DESIGN					10
		CONSTRUCTION					50
		TOTAL FUNDING	LNR		B		60B
1C.		D08A DOFAW BASEYARD ADDITION, OAHU					
		CONSTRUCTION FOR AN OAHU DISTRICT DOFAW BASEYARD OFFICE REPLACEMENT. THE IMPROVEMENTS WILL PROVIDE SPACE FOR NEW AND EXISTING PROGRAMS AND PERSONNEL.					
		CONSTRUCTION					150
		TOTAL FUNDING	LNR		C		150C
1D.		D23A OLINDA FACILITY NENE CARETAKER'S RESIDENCE, MAUI					
		CONSTRUCTION FOR A TWO BEDROOM, ONE BATH RESIDENCE WITH WATER AND POWER UTILITIES AT THE OLINDA ENDANGERED SPECIES FACILITY TO PROVIDE SECURITY AND SURVEILLANCE FOR THE PIIHOLO ENTRANCE TO THE WATER FOWL COMPLEX AND FOR BIRDS MAINTAINED AT THAT LOCATION.					
		CONSTRUCTION					25
		TOTAL FUNDING	LNR		C		25C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>LNR405 - CONSERVATION &amp; RESOURCES ENFORCEMENT</b>							
2.	A10	DOCARE ADMINISTRATIVE BUILDING, MAUNA KEA, HAWAII					
		CONSTRUCTION FOR THE RENOVATION OF EXISTING STRUCTURE TO SERVE AS AN ADMINISTRATIVE AND TRAINING FACILITY FOR DOCARE AND OTHER DEPARTMENTAL PERSONNEL, INCLUDING PARKING LOT, FENCING, INSTALLATION OF SEPTIC TANK, LEACH FIELD AND OTHER INCIDENTAL AND RELATED WORK.					
		CONSTRUCTION			120		
		TOTAL FUNDING	LNR		120C		C
<b>E. HEALTH</b>							
<b>HTH111 - HANSEN'S DISEASE INSTITUTIONAL SERVICES</b>							
1.	111002	HALE MOHALU HOSPITAL, ASBESTOS REMOVAL, OAHU					
		DESIGN AND CONSTRUCTION FOR THE REMOVAL OF ASBESTOS MATERIALS. PROJECT TO INCLUDE THE REPLACEMENT OF CEILING AND LIGHT FIXTURES IN VARIOUS AREAS OF THE HOSPITAL.					
		DESIGN			29		
		CONSTRUCTION			275		
		TOTAL FUNDING	AGS		304C		C
2.	111004	KALAUPAPA MAIN KITCHEN REFRIGERATION FACILITY, PHASE II, MOLOKAI					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO KALAUPAPA MAIN KITCHEN REFRIGERATION FACILITY AND OTHER RELATED AREAS.					
		DESIGN			1		
		CONSTRUCTION			221		
		TOTAL FUNDING	AGS		222C		C
3.	111005	KALAUPAPA STORE WAREHOUSE, PHASE II, MOLOKAI					
		DESIGN AND CONSTRUCTION FOR THE REPLACEMENT OF THE KALAUPAPA STORE WAREHOUSE, PHASE II. PROJECT TO INCLUDE ELECTRICAL AND VENTILATION SYSTEMS.					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN			27		
		CONSTRUCTION			224		
		TOTAL FUNDING	AGS		251C		C

HTH212 - HONOKAA HOSPITAL

4. 212002 HONOKAA HOSPITAL, NEW HOSPITAL FACILITY, HAWAII

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW HOSPITAL WITH APPROXIMATELY 50 BEDS AT HONOKAA TO REPLACE PRESENT STRUCTURE AND TO MEET MEDICARE STANDARDS.

DESIGN			1	
CONSTRUCTION			6,699	
EQUIPMENT			1	
TOTAL FUNDING	AGS		6,701C	C

HTH214 - KOHALA HOSPITAL

5. 214001 KOHALA HOSPITAL, WASTE WATER TREATMENT PLANT, HAWAII

DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF A WASTE WATER TREATMENT SYSTEM TO REPLACE DUAL CESSPOOL SYSTEM TO PROCESS 10,000 GALLONS OF EFFLUENT A DAY.

DESIGN			22	
CONSTRUCTION			200	
TOTAL FUNDING	AGS		222C	C

- 5A. KOHALA HOSPITAL, LONG TERM CARE WING, HAWAII

PLANS AND DESIGN FOR THE EXPANSION OF THE HOSPITAL FOR A LONG TERM CARE WING AND RELATED FACILITIES.

PLANS				1
DESIGN				109
TOTAL FUNDING	AGS		C	110C

HTH215 - KONA HOSPITAL

6. 215201 KONA HOSPITAL RENOVATION AND EXPANSION, PHASE II, HAWAII

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND EXPANSION OF THE EXISTING HOSPITAL.

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN			1		
		CONSTRUCTION		7,018			
		EQUIPMENT			1		
		TOTAL FUNDING	AGS	7,020C			C

## HTH221 - MAUI MEMORIAL HOSPITAL

7. 221004 MAUI MEMORIAL HOSPITAL,  
EMERGENCY GENERATOR FACILITY,  
MAUI

DESIGN AND CONSTRUCTION FOR A  
GENERATOR ROOM TO HOUSE THE  
EMERGENCY GENERATOR AND EQUIPMENT  
FOR MAUI MEMORIAL HOSPITAL.

DESIGN			20	
CONSTRUCTION			280	
TOTAL FUNDING	AGS		300C	C

8. 221001 MAUI MEMORIAL HOSPITAL, SECOND  
INCREMENT/RENOVATION, MAUI

DESIGN FOR THE SECOND INCREMENT OF  
THE RENOVATION OF MAUI MEMORIAL  
HOSPITAL.

DESIGN			123	
TOTAL FUNDING	AGS		123C	C

9. 221008 MAUI MEMORIAL HOSPITAL, AIR  
CONDITIONING IMPROVEMENTS, MAUI

DESIGN, CONSTRUCTION, AND EQUIPMENT  
FOR A NEW AIR CONDITIONING TOWER AND  
CHILLER FOR MAUI MEMORIAL HOSPITAL.

DESIGN			48	
CONSTRUCTION			100	
EQUIPMENT			400	
TOTAL FUNDING	AGS		548C	C

## HTH223 - KULA HOSPITAL

10. KULA HOSPITAL, OUTPATIENT CLINIC  
RENOVATION, MAUI

PLANS, DESIGN, CONSTRUCTION, AND  
EQUIPMENT FOR THE RENOVATION OF THE  
OUTPATIENT CLINIC.

PLANS			1	
DESIGN			1	
CONSTRUCTION			397	
EQUIPMENT			1	
TOTAL FUNDING	AGS		400C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>HTH231 - KAUAI VETERANS MEMORIAL HOSPITAL</b>							
11.		KAUAI VETERANS MEMORIAL HOSPITAL, LONG TERM CARE WING/KITCHEN RENOVATION, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF THE KITCHEN AREA TO COMPLY WITH MEDICARE REGULATIONS AND OTHER RELATED WORK. PROJECT TO INCLUDE THE RENOVATION OF THE LONG TERM CARE WING TO ENLARGE THE ACTIVITIES AND DINING ROOM AREA TO COMPLY WITH MEDICARE REGULATIONS AND THE MODIFICATION OF SHOWERS AND BATHROOMS TO COMPLY WITH FEDERAL EQUAL OPPORTUNITY REGULATIONS.					
		DESIGN			1		
		CONSTRUCTION			58		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		60C		C
<b>HTH232 - SAMUEL MAHELONA MEMORIAL HOSPITAL</b>							
12.		232003 SAMUEL MAHELONA MEMORIAL HOSPITAL, EXPANSION AND RENOVATION, KAUAI					
		PLANS FOR CERTIFICATE OF NEED TO CONSTRUCT 25 SNF/ICF, 6 HOSPICE BEDS, MEDICAL DIRECTOR'S OFFICE, NURSES STATION, SPACE FOR DAY HEALTH PROGRAM, EMPLOYEES' CHILD CARE PROGRAM, AND OTHER RELATED AREAS.					
		PLANS			125		
		TOTAL FUNDING	AGS		125C		C
13.		232001 SAMUEL MAHELONA MEMORIAL HOSPITAL, SEWER LINE AND TREATMENT PLANT, KAUAI					
		DESIGN AND CONSTRUCTION FOR SEWER LINE CONNECTIONS AND IMPROVEMENTS TO THE SEWAGE TREATMENT PLANT.					
		DESIGN			14		
		CONSTRUCTION			70		
		TOTAL FUNDING	AGS		84C		C
<b>HTH241 - MALUHIA HOSPITAL</b>							
14.		241001 MALUHIA HOSPITAL, RENOVATION AND MODERNIZATION, OAHU					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN FOR THE RENOVATION AND MODERNIZATION OF MALUHIA HOSPITAL TO MEET THE REQUIREMENTS OF MEDICARE AND OTHER PROGRAM NEEDS.					
		DESIGN		300			
		TOTAL FUNDING	AGS	300C			C
<b>HTH242 - LEAHI HOSPITAL</b>							
14A.	242002	LEAHI HOSPITAL, NEW TUBERCULOSIS INPATIENT UNIT & SUPPORT SERVICES, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A NEW INPATIENT UNIT AND RELATED SUPPORT SERVICES.					
		PLANS					50
		DESIGN					100
		CONSTRUCTION					1
		TOTAL FUNDING	AGS		B		151B
<b>SUB601 - PRIVATE HOSPITALS &amp; MEDICAL SERVICES</b>							
15.		POHAI NANI LONG-TERM HEALTH CARE FACILITY, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A LONG-TERM HEALTH CARE FACILITY.					
		PLANS				1	
		DESIGN				1	
		CONSTRUCTION				47	
		EQUIPMENT				1	
		TOTAL FUNDING	HTH			50C	C
16.		WAIANAE COAST COMPREHENSIVE HEALTH CENTER, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE WAIANAE COAST COMPREHENSIVE HEALTH CENTER.					
		PLANS				1	
		DESIGN				1	
		CONSTRUCTION				997	
		EQUIPMENT				1	
		TOTAL FUNDING	HTH			1,000C	C
16A.		HALE MAKUA LONG TERM CARE FACILITY, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE EXPANSION AND IMPROVEMENTS TO					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		THE HALE MAKUA LONG TERM CARE FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		DESIGN					1
		CONSTRUCTION					1,998
		EQUIPMENT					1
		TOTAL FUNDING	HTH		C		2,000C
<b>HTH420 - ADULT MENTAL HEALTH</b>							
16B.	420501	HAWAII STATE HOSPITAL, COOKE BUILDING, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION OF A SPRINKLER SYSTEM, SMOKE BARRIERS, FIRE ALARMS, AND OTHER RELATED IMPROVEMENTS TO CORRECT CODE DEFICIENCIES.					
		PLANS					1
		DESIGN					17
		CONSTRUCTION					91
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		110C
16C.		FRIENDSHIP HOUSE, KAUAI					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE FRIENDSHIP HOUSE ON KAUAI.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					1,197
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		1,200C
<b>HTH440 - ALCOHOL &amp; DRUG ABUSE</b>							
17.		RESIDENTIAL SUBSTANCE ABUSE FACILITY, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW RESIDENTIAL SUBSTANCE ABUSE FACILITY FOR HINA MAUKA. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		DESIGN					1
		CONSTRUCTION					1,987
		EQUIPMENT					1
		TOTAL FUNDING	HTH				1,989C

HTH501 - DEVELOPMENTAL DISABILITIES

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
17A.	501004	HALE HAUOLI DAY CARE FACILITIES FOR THE MENTALLY RETARDED, KAUAI					
		PLANS AND DESIGN FOR DAY CARE FACILITIES FOR THE MENTALLY RETARDED.					
		PLANS DESIGN					1
		TOTAL FUNDING	AGS				519
						C	520C
<b>HTH610 - ENVIRONMENTAL HEALTH SERVICES</b>							
18.	610301	NEW VECTOR CONTROL FACILITY, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR A NEW VECTOR CONTROL FACILITY TO REPLACE EXISTING FACILITY. FACILITY TO INCLUDE LABORATORY FACILITIES AND OFFICES FOR THE VECTOR ADMINISTRATION AND FIELD OPERATIONS.					
		CONSTRUCTION EQUIPMENT					999
		TOTAL FUNDING	AGS				1
							1,000C
							C
<b>HTH907 - GENERAL ADMINISTRATION</b>							
18A.	907501	STATEWIDE CORRECTIONS TO ACCOMMODATE THE HANDICAPPED IN DOH FACILITIES, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE RENOVATION OF EXISTING DEPARTMENT OF HEALTH FACILITIES TO ACCOMMODATE THE HANDICAPPED.					
		PLANS DESIGN					298
		CONSTRUCTION					1
		TOTAL FUNDING	AGS				1
							300C
							C
18B.		WAIMANALO HEALTH CENTER, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CODE AND RELATED IMPROVEMENTS FOR THE WAIMANALO HEALTH CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS DESIGN					2
		CONSTRUCTION					2
		EQUIPMENT					194
		TOTAL FUNDING	HTH				2
			HTH				100C
							R
							100R

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>F. SOCIAL SERVICES</b>							
<b>HMS502 - YOUTH SERVICES PROGRAM</b>							
1.		BOYS AND GIRLS CLUB OF HONOLULU, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION, REMODELING, AND UPGRADE OF THE EXISTING BOYS AND GIRLS CLUB FACILITY IN MCCULLY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			497		
		EQUIPMENT			1		
		TOTAL FUNDING	HMS		500C		C
1A.		SUSANNAH WESLEY COMMUNITY CENTER, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND EXPANSION OF THE SUSANNAH WESLEY COMMUNITY CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		DESIGN					1
		CONSTRUCTION					498
		EQUIPMENT					1
		TOTAL FUNDING	HMS			C	500C
<b>DEF112 - SERVICES TO VETERANS</b>							
2.		OVS931 VETERANS' CEMETERIES UPGRADE AND DEVELOPMENT, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE UPGRADE AND DEVELOPMENT OF VETERANS' CEMETERIES AT VARIOUS NEIGHBOR ISLAND SITES INCLUDING KAUAI, MAUI, MOLOKAI, LANAI, HILO, AND WEST HAWAII. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS			1		
		LAND			1		
		DESIGN			300		
		CONSTRUCTION			3,158		
		TOTAL FUNDING	AGS		1,500C		C
			AGS		1,960N		N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
2A.		HAWAII VETERANS' CENTER, OAHU					
		PLANS, LAND ACQUISITION, AND DESIGN FOR A HAWAII VETERANS' CENTER TO BE EXPENDED BY THE OAHU VETERANS COUNCIL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS					5
		LAND					5
		DESIGN					190
		TOTAL FUNDING	AGS		C		200C
2B.		KAUAI VETERANS' CENTER, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE KAUAI VETERANS' CENTER TO BE EXPENDED BY THE KAUAI VETERANS COUNCIL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		DESIGN					1
		CONSTRUCTION					248
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		250C
<b>HMS229 - HOUSING ASSISTANCE ADMINISTRATION</b>							
2C.		HOMELESS SHELTERS, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR HOMELESS SHELTERS, STATEWIDE. FUNDS MAY BE USED FOR GRANT PROJECTS, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS					1
		LAND					1
		DESIGN					1
		CONSTRUCTION					496
		EQUIPMENT					1
		TOTAL FUNDING	HMS		C		500C
<b>BUF225 - PRIVATE HOUSING DEVELOPMENT &amp; OWNERSHIP</b>							
3.		M34 PAWAA MASTER PLAN DEVELOPMENT, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE PAWAA MASTER PLAN DEVELOPMENT PROJECT. ULTIMATE PLAN WILL INCLUDE AFFORDABLE HOUSING UNITS, MARKET HOUSING UNITS, COMMERCIAL, PARKING, AND PUBLIC USES.					
		PLANS				300	
		DESIGN				699	



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		CONSTRUCTION			1		
		TOTAL FUNDING	BUF		1,000C		C
<b>HHL602 - PLANNG, DEV, MGT &amp; GEN SPPT FOR HAWN HMSTDS</b>							
4.	LMD001	HAWAII HOME LANDS DEVELOPMENT, STATEWIDE					
		CONSTRUCTION FOR THE DEVELOPMENT OF HAWAII HOME LANDS FOR RESIDENTIAL, AGRICULTURAL, AND OTHER PURPOSES PERMITTED BY THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED. TO INCLUDE: PLANS, DESIGN, AND THE CONSTRUCTION OF ON-SITE AND OFF-SITE IMPROVEMENTS.			13,880		
		TOTAL FUNDING	HHL		13,880C		C
4A.	PAUKUKALO	COMMUNITY CENTER, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE EXTENSION/EXPANSION OF THE PAUKUKALO COMMUNITY CENTER.					
		DESIGN					25
		CONSTRUCTION					230
		EQUIPMENT					1
		TOTAL FUNDING	HHL		C		256C
<b>HMS904 - GENERAL ADMINISTRATION (DSSH)</b>							
4B.	CHILD AND FAMILY SERVICE, EWA FAMILY CENTER, OAHU						
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE CHILD AND FAMILY SERVICE EWA FAMILY CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					3,330
		EQUIPMENT					1
		TOTAL FUNDING	HMS		C		3,333C

G. FORMAL EDUCATION

EDN100 - SCHOOL BASED BUDGETING

- 1: 005 LUMP SUM CIP-ARCHITECTURAL BARRIERS

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		AND SPECIAL EDUCATION CLASSROOMS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE PROVISION OF RAMPS, ELEVATORS, AND OTHER CORRECTIVE MEASURES FOR ACCESSIBILITY OF SCHOOL FACILITIES TO HANDICAPPED PERSONS.					
		DESIGN		400		400	
		CONSTRUCTION		4,600		4,600	
		TOTAL FUNDING	AGS	5,000B		5,000B	
2.	010	LUMP SUM CIP-ASBESTOS REMOVAL IN SCHOOL BUILDINGS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR CORREC- TION, IMPROVEMENT AND RENOVATION TO ALL EXISTING SCHOOL BUILDINGS WITH IDENTIFIED HEALTH AND SAFETY HAZARDS.					
		DESIGN		50		50	
		CONSTRUCTION		450		450	
		TOTAL FUNDING	AGS	500B		500B	
3.	020	LUMP SUM CIP-COUNTY BUILDING PERMIT REQUIREMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR ON-SITE AND OFF-SITE IMPROVEMENTS, AS REQUIRED BY THE COUNTIES.					
		DESIGN		50			
		CONSTRUCTION		250			
		TOTAL FUNDING	AGS	300B			B
4.	008	LUMP SUM CIP-FIRE PROTECTION SYSTEMS AND FIRE ALARM SYSTEMS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR FIRE PROTECTION SYSTEMS TO MEET COUNTY FIRE PROTECTION STANDARDS.					
		DESIGN		50		50	
		CONSTRUCTION		450		450	
		TOTAL FUNDING	AGS	500B		500B	
5.	003	LUMP SUM CIP-MASTER PLANS, SITE STUDIES AND MINOR LAND ACQUISITIONS, STATEWIDE					
		PLANS AND LAND ACQUISITION FOR MASTER PLANNING, SITE SELECTION, PRE-LAND ACQUISITION STUDIES, ACQUISITION OF SMALL PARCELS, FEASIBILITY STUDIES TO MEET FUTURE AND UNFORESEEN NEEDS AND CIP ASSISTANCE FROM DAGS IN PROVIDING COST ESTIMATES FOR BUDGETING AND					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		EXPENDITURE PLANNING: PLANS			595		600
		LAND			5		
		TOTAL FUNDING	AGS		600B		600B
6.	002	LUMP SUM CIP-MINOR RENOVATIONS TO BUILDINGS AND SCHOOL SITES, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR MINOR ADDITIONS, RENOVATIONS, AND IMPROVEMENTS TO BUILDINGS AND SCHOOL SITES.					
		DESIGN			40		40
		CONSTRUCTION			1,450		1,450
		EQUIPMENT			10		10
		TOTAL FUNDING	AGS		1,500B		1,500B
7.	011	LUMP SUM CIP-PROJECT ADJUSTMENT FUND, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT. OTHER DOE PROJECTS WITHIN THIS ACT WITH UNREQUIRED BALANCES MAY BE TRANSFERRED INTO THIS ITEM.					
		DESIGN			200		200
		CONSTRUCTION			2,450		1,750
		EQUIPMENT			50		50
		TOTAL FUNDING	AGS		2,700B		2,000B
8.	001	LUMP SUM CIP-RELOCATION OR CONSTRUCTION OF PORTABLE CLASSROOMS, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RELOCATION OR CONSTRUCTION OF PORTABLE CLASSROOMS EACH SCHOOL YEAR TO MEET ENROLLMENT SHIFTS AMONG SCHOOLS, PROGRAM DEMANDS, UNFORESEEN EMERGENCIES, AND TO PROVIDE TEMPORARY FACILITIES WHILE NEW SCHOOLS ARE BEING PLANNED AND/OR UNDER CONSTRUCTION. THESE FUNDS ARE ALSO FOR SECONDARY SCHOOLS.					
		DESIGN			175		175
		CONSTRUCTION			3,665		3,665
		EQUIPMENT			160		160
		TOTAL FUNDING	AGS		4,000B		4,000B
9.	009	LUMP SUM CIP-RENOVATIONS FOR NOISE ABATEMENT, STATEWIDE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN AND CONSTRUCTION FOR CORRECTIVE MEASURES TO SCHOOLS AFFECTED BY EXCESSIVE NOISE AND VENTILATION PROBLEMS.					
					50		50
					450		450
		TOTAL FUNDING	AGS		500B		500B
10.	014	LUMP SUM CIP-REQUIREMENTS FOR HEALTH AND SAFETY/LAWS AND ORDINANCES, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO SCHOOL FACILITIES AND GROUNDS TO MEET HEALTH, SAFETY REQUIREMENTS/LAWS AND ORDINANCES.					
					50		50
					450		450
		TOTAL FUNDING	AGS		500B		500B
11.	013	LUMP SUM CIP-SPECIAL EDUCATION PROGRAM, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OR CONSTRUCTION OF CLASSROOMS FOR SPECIAL EDUCATION.					
					35		35
					215		214
							1
		TOTAL FUNDING	AGS		250B		250B
12.	015	LUMP SUM CIP-STATE/DISTRICT RELOCATIONS AND IMPROVEMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR STATE AND DISTRICT OFFICE IMPROVEMENTS.					
					25		
					75		
		TOTAL FUNDING	AGS		100B		B
13.	012	LUMP SUM CIP-TELECOMMUNICATIONS & POWER INFRASTRUCTURE IMPROVEMENTS, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TELECOMMUNICATION AND POWER INFRASTRUCTURE REQUIREMENTS.					
					50		50
					600		600
					50		50
		TOTAL FUNDING	AGS		700B		700B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
13A.		BALDWIN HIGH SCHOOL, MAUI					
		DESIGN FOR A GYMNASIUM, GROUND AND SITE IMPROVEMENTS, PARKING, EQUIPMENT AND APPURTENANCES.					
		DESIGN					500
		TOTAL FUNDING	AGS		B		225B
			AGS		C		275C
13B.	104001	CENTRAL INTERMEDIATE SCHOOL, OAHU					
		DESIGN FOR THE FIRST INCREMENT OF THE REPLACEMENT PROGRAM FOR CENTRAL INTERMEDIATE SCHOOL.					
		DESIGN					135
		TOTAL FUNDING	AGS		B		135B
14.	700001	ELEELE ELEMENTARY SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN			185		1
		CONSTRUCTION					2,459
		EQUIPMENT					40
		TOTAL FUNDING	AGS		185B		2,500B
15.	303005	EWA ELEMENTARY SCHOOL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION			2,200		
		EQUIPMENT			40		
		TOTAL FUNDING	AGS		2,240B		B
15A.	343002	EWA II ELEMENTARY SCHOOL (NEW), OAHU					
		LAND ACQUISITION FOR NEW EWA II ELEMENTARY SCHOOL.					
		LAND					200
		TOTAL FUNDING	AGS		B		200B
16.	343005	EWA GENTRY ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FIRST INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		APPURTENANCES.					
		DESIGN					165
		CONSTRUCTION					10,875
		EQUIPMENT					125
		TOTAL FUNDING	AGS		B		11,165B
17.	343006	EWA GENTRY ELEMENTARY SCHOOL, OAHU					
		DESIGN FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					195
		TOTAL FUNDING	AGS		B		195B
18.	207002	HELEMANO ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; COVERED WALKWAYS; EQUIPMENT AND APPURTENANCES.					
		DESIGN		185			1
		CONSTRUCTION					2,455
		EQUIPMENT					40
		TOTAL FUNDING	AGS AGS	185B C			174B 2,322C
19.	502007	HILO HIGH SCHOOL, HAWAII					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOMS; COVERED WALKWAYS; GROUND AND SITE IMPROVEMENTS; EQUIP- MENT AND APPURTENANCES.					
		CONSTRUCTION					3,245
		EQUIPMENT					35
		TOTAL FUNDING	AGS		B		3,280B
20.	508001	HOOKENA ELEMENTARY SCHOOL, HAWAII					
		LAND ACQUISITION AND DESIGN FOR CLASS- ROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		LAND					400
		DESIGN					140
		TOTAL FUNDING	AGS		B		540B
21.	406001	KAAAWA ELEMENTARY SCHOOL, OAHU					
		PLANS AND LAND ACQUISITION FOR SITE SELECTION AND LAND ACQUISITION.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		PLANS			25		
		LAND			50		
		TOTAL FUNDING	AGS		75B		B
22.	532006	KAHAKAI ELEMENTARY SCHOOL, HAWAII					
		CONSTRUCTION AND EQUIPMENT FOR CLASS- ROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		CONSTRUCTION			2,440		
		EQUIPMENT			30		
		TOTAL FUNDING	AGS		2,470B		B
23.	435005	KAHUKU ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ADMINISTRATION/LIBRARY BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIP- MENT AND APPURTENANCES. RENOVATE TEMPORARY FACILITIES TO CLASSROOMS.					
		DESIGN			215		
		CONSTRUCTION				2,950	
		EQUIPMENT				75	
		TOTAL FUNDING	AGS		215B	3,025B	
24.	410025	KAHUKU HIGH SCHOOL, OAHU					
		DESIGN FOR ON-SITE DRAINAGE IMPROVEMENTS.					
		DESIGN					100
		TOTAL FUNDING	AGS				100B
24A.	625005	KALAMA INTERMEDIATE SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN					1
		CONSTRUCTION				1,198	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS				1,200B
24B.		KALEIOPUU ELEMENTARY SCHOOL, OAHU					
		DESIGN FOR AN ADMINISTRATION/LIBRARY BUILDING AND RENOVATION OF TEMPORARY ADMINISTRATION AND LIBRARY INTO CLASSROOMS, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		APPURTENANCES. DESIGN					225
		TOTAL FUNDING	AGS		B		225B
24C.		KAMAILE ELEMENTARY SCHOOL, OAHU					
		DESIGN FOR AN ADMINISTRATION/LIBRARY BUILDING AND RENOVATION OF TEMPORARY ADMINISTRATION AND LIBRARY INTO CLASSROOMS, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES. DESIGN					225
		TOTAL FUNDING	AGS		B		225B
24D.		340009 KANOELANI ELEMENTARY SCHOOL, OAHU					
		DESIGN FOR AN ADMINISTRATION/LIBRARY BUILDING AND RENOVATION OF TEMPORARY ADMINISTRATION AND LIBRARY INTO CLASSROOMS. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES. DESIGN					225
		TOTAL FUNDING	AGS		B		225B
25.		716002 KAPAA II ELEMENTARY SCHOOL, KAUAI					
		DESIGN FOR FIRST INCREMENT; CLASSROOMS; PLAYFIELD; PARKING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. DESIGN					675
		TOTAL FUNDING	AGS		B		675B
25A.		716001 KAPAA II ELEMENTARY SCHOOL, KAUAI					
		PLANS AND LAND ACQUISITION FOR KAPAA II ELEMENTARY SCHOOL TO INCLUDE A MASTER PLAN. PLANS LAND					75 600
		TOTAL FUNDING	AGS		B		675B
26.		717002 KAPAA INTERMEDIATE SCHOOL (NEW), KAUAI					
		DESIGN FOR FIRST INCREMENT OF THE NEW SCHOOL TO INCLUDE GROUND AND SITE IMPROVEMENTS.					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN TOTAL FUNDING	AGS		B	925 925B	
26A.	717001	KAPAA INTERMEDIATE SCHOOL (NEW), KAUAI					
		LAND ACQUISITION FOR KAPAA INTERMEDIATE SCHOOL. LAND TOTAL FUNDING	AGS		B	1,180 1,180B	
26B.	347003	KAPOLEI ELEMENTARY SCHOOL, OAHU					
		DESIGN FOR THIRD INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. DESIGN TOTAL FUNDING	AGS		B	215 215B	
27.	718002	KAUAI INTERMEDIATE SCHOOL (NEW), KAUAI					
		DESIGN FOR FIRST INCREMENT OF NEW SCHOOL; CLASSROOMS; TEMPORARY OFFICE; LIBRARY; DINING; PLAYFIELD; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS. DESIGN TOTAL FUNDING	AGS	750 750B			B
27A.	718001	KAUAI INTERMEDIATE SCHOOL (NEW), KAUAI					
		PLANS AND LAND ACQUISITION FOR KAUAI INTERMEDIATE SCHOOL TO INCLUDE ENVIRONMENTAL IMPACT STATEMENT, SITE SELECTION, AND MASTER PLAN. PLANS LAND TOTAL FUNDING	AGS		B	125 25 150B	
28.	513007	KEAAU ELEMENTARY AND INTERMEDIATE SCHOOL, HAWAII					
		CONSTRUCTION AND EQUIPMENT FOR CLASS- ROOMS; COVERED WALKWAYS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS. CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS	1,832 10 1,842B			B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
29.	538002	KEAAU HIGH SCHOOL, HAWAII					
		PLANS, LAND ACQUISITION, AND DESIGN FOR MASTER PLAN AND DESIGN OF FIRST INCREMENT FOR THE SCHOOL.					
		PLANS		100			
		LAND DESIGN				1,190	10
		TOTAL FUNDING	AGS	100B		1,200B	
30.	537002	KEAAU II ELEMENTARY SCHOOL, HAWAII					
		PLANS AND LAND ACQUISITION FOR MASTER PLAN AND LAND ACQUISITION.					
		PLANS		100			
		LAND				600	
		TOTAL FUNDING	AGS	100B		600B	
30A.	536001	KEALAKEHE HIGH SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FIRST INCREMENT: GROUND AND SITE IMPROVEMENTS, CLASSROOMS, ADMINISTRATION BUILDING, ACCESS ROAD, PARKING, EQUIPMENT AND APPURTENANCES.					
		DESIGN					13
		CONSTRUCTION				24,832	
		EQUIPMENT					130
		TOTAL FUNDING	AGS		B	24,975B	
31.	533007	KEALAKEHE INTERMEDIATE SCHOOL, HAWAII					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION				3,275	
		EQUIPMENT					25
		TOTAL FUNDING	AGS		B	3,300B	
31A.	534006	KEONEPOKO ELEMENTARY SCHOOL, HAWAII					
		DESIGN FOR A CAFETORIUM, GROUND AND SITE IMPROVEMENTS, DRAINAGE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN				185	
		TOTAL FUNDING	AGS		B	185B	
31B.	608008	KIHEI ELEMENTARY SCHOOL, MAUI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN					1
		CONSTRUCTION					898
		EQUIPMENT					1
		TOTAL FUNDING	AGS		B		900B
32.	630002	KIHEI II ELEMENTARY SCHOOL, MAUI					
		LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FIRST INCREMENT; CLASSROOMS; PLAYFIELD; PARKING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		LAND					2,999
		DESIGN					1
		CONSTRUCTION					8,815
		EQUIPMENT					185
		TOTAL FUNDING	AGS		B		12,000B
33.	630003	KIHEI II ELEMENTARY SCHOOL, MAUI					
		DESIGN FOR CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN		225			
		TOTAL FUNDING	AGS	225B			B
34.	708003	KILAUEA ELEMENTARY SCHOOL, KAUAI					
		DESIGN FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					175
		TOTAL FUNDING	AGS		B		175B
34A.	715007	KING KAUMUALII ELEMENTARY SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A LIBRARY AND THE RENOVATION OF THE TEMPORARY LIBRARY INTO CLASSROOMS, SITE IMPROVEMENTS, AND APPURTENANCES.					
		DESIGN					1
		CONSTRUCTION					2,449
		EQUIPMENT					50
		TOTAL FUNDING	AGS		B		2,500B
34B.	715005	KING KAUMUALII ELEMENTARY SCHOOL, KAUAI					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CAFETORIUM AND RENOVATION OF EXISTING TEMPORARY SERVING AND DINING ROOM INTO CLASSROOMS, SITE IMPROVEMENTS, AND APPURTENANCES.					
		DESIGN					5
		CONSTRUCTION					2,845
		EQUIPMENT					50
		TOTAL FUNDING	AGS		B		2,900B
34C.	628002	KING KEKAULIKE HIGH SCHOOL, MAUI					
		LAND ACQUISITION FOR THE NEW KING KEKAULIKE HIGH SCHOOL.					
		LAND					100
		TOTAL FUNDING	AGS		B		100B
35.	517004	KONAWAENA ELEMENTARY SCHOOL, HAWAII					
		PLANS, LAND ACQUISITION, AND DESIGN FOR FIRST INCREMENT: CLASSROOMS, COVERED WALKWAYS, ACCESS ROAD, PARKING, GROUND AND SITE IMPROVEMENTS, PLAYFIELDS, PORTABLE RELOCATION, AND APPURTENANCES.					
		PLANS					1
		LAND					340
		DESIGN					40
		TOTAL FUNDING	AGS		B		381B
35A.	624001	LAHAINA INTERMEDIATE SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CAFETORIUM, AND RENOVATION OF THE TEMPORARY DINING ROOM INTO CLASSROOMS, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN					250
		CONSTRUCTION					2,999
		EQUIPMENT					1
		TOTAL FUNDING	AGS		B		3,250B
35B.	612004	LAHAINALUNA HIGH SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN					1
		CONSTRUCTION					998
		EQUIPMENT					1
		TOTAL FUNDING	AGS		B		1,000B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
35C.		LAHAINALUNA HIGH SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR WATER TREATMENT SYSTEM IMPROVEMENTS, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES TO MEET THE REQUIREMENTS OF THE FEDERAL CLEAN WATER ACT.					
		DESIGN					1
		CONSTRUCTION					1,198
		EQUIPMENT					1
		TOTAL FUNDING	AGS		B		1,200B
36.		420005 LAIE ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ADMINISTRATION BUILDING AND RENOVATE EXISTING OFFICE TO CLASSROOMS.					
		DESIGN			175		
		CONSTRUCTION					2,150
		EQUIPMENT					25
		TOTAL FUNDING	AGS		175B		2,175B
37.		341009 LEIHOKU ELEMENTARY SCHOOL, OAHU					
		DESIGN FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					185
		TOTAL FUNDING	AGS		B		185B
38.		213005 LEILEHUA HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN				5	
		CONSTRUCTION				140	
		EQUIPMENT				5	
		TOTAL FUNDING	AGS		150B		B
39.		135002 LINAPUNI ELEMENTARY SCHOOL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR A CAFETORIUM, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION				720	
		EQUIPMENT				30	
		TOTAL FUNDING	AGS		750B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
39A.	629003	LOKELANI INTERMEDIATE SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN					1
		CONSTRUCTION					298
		EQUIPMENT					1
		TOTAL FUNDING	AGS		B		300B
40.	626001	MAUI WAENA INTERMEDIATE SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR MUSIC BUILDING; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN		175			
		CONSTRUCTION					1,840
		EQUIPMENT					10
		TOTAL FUNDING	AGS	175B			1,850B
41.	626008	MAUI WAENA INTERMEDIATE SCHOOL, MAUI					
		DESIGN FOR CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN					195
		TOTAL FUNDING	AGS		B		195B
41A.	626007	MAUI WAENA INTERMEDIATE SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN					1
		CONSTRUCTION					498
		EQUIPMENT					1
		TOTAL FUNDING	AGS		B		500B
42.	315005	MAUKA LANI ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ADMINISTRATION/LIBRARY; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS. RENOVATE TEMPORARY FACILITIES TO CLASSROOMS.					
		DESIGN		215			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		CONSTRUCTION EQUIPMENT				2,950 75	
		TOTAL FUNDING	AGS		215B	3,025B	
43.	215008	MILILANI HIGH SCHOOL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION EQUIPMENT				2,350 40	
		TOTAL FUNDING	AGS		2,390B		B
44.	215009	MILILANI HIGH SCHOOL, OAHU					
		DESIGN FOR FOUR CLASSROOM ADDITION; RENOVATE CLASSROOMS IN BUILDING D; EQUIPMENT AND APPURTENANCES.					
		DESIGN					175
		TOTAL FUNDING	AGS		B		175B
44A.	241006	MILILANI MAUKA ELEMENTARY SCHOOL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION EQUIPMENT				2,260 75	
		TOTAL FUNDING	AGS		B	2,335B	
44B.	216002	MILILANI-UKA ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN ADMINISTRATION BUILDING AND RENOVATION OF THE TEMPORARY ADMINIS- TRATION OFFICE INTO CLASSROOMS, SITE IMPROVEMENTS, AND APPURTENANCES.					
		DESIGN					5
		CONSTRUCTION EQUIPMENT				2,220 25	
		TOTAL FUNDING	AGS		B	2,250B	
44C.	MOANALUA	HIGH SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR SITE IMPROVEMENTS FOR A RETAINING WALL NEAR THE GYMNASIUM.					
		DESIGN					1

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		CONSTRUCTION					499
		TOTAL FUNDING	AGS		B		500B
45.	423001	MOKAPU ELEMENTARY SCHOOL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOMS, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION		2,365			
		EQUIPMENT		40			
		TOTAL FUNDING	AGS	2,405B			B
46.	520005	MT. VIEW ELEMENTARY AND INTERMEDIATE SCHOOL, HAWAII					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOMS, COVERED WALKWAYS, EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION		4,330			
		EQUIPMENT		40			
		TOTAL FUNDING	AGS	4,370B			B
46A.	520003	MT. VIEW ELEMENTARY AND INTERMEDIATE SCHOOL, HAWAII					
		DESIGN FOR A CAFETORIUM AND RENOVATION OF PORTABLES INTO CLASSROOMS, COVERED WALKWAYS, PARKING, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN					185
		TOTAL FUNDING	AGS		B		105B
			AGS		C		80C
47.	520006	MT. VIEW ELEMENTARY AND INTERMEDIATE SCHOOL, HAWAII					
		DESIGN FOR CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN					225
		TOTAL FUNDING	AGS		B		225B
48.	318007	NANAKULI HIGH SCHOOL, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES. PROJECT SHALL BE IMPLEMENTED ON A DESIGN/BUILD BASIS.					
		PLANS					35



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN		190			
		CONSTRUCTION		2,810			
		EQUIPMENT		40			
		TOTAL FUNDING	AGS	71B			B
			AGS	3,004C			C
49.	318008	NANAKULI HIGH SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR BASEBALL FIELD; GROUND AND SITE IMPROVEMENTS.					
		DESIGN		60			
		CONSTRUCTION				500	
		TOTAL FUNDING	AGS	60B		500B	
50.	350001	NANAKULI III ELEMENTARY SCHOOL, OAHU					
		PLANS AND LAND ACQUISITION FOR SITE SELECTION; ENVIRONMENTAL IMPACT STATEMENT; MASTER PLAN; AND LAND ACQUISITION.					
		PLANS		100			
		LAND		600			
		TOTAL FUNDING	AGS	700B			B
51.	350002	NANAKULI III ELEMENTARY SCHOOL, OAHU					
		DESIGN FOR FIRST INCREMENT; CLASS-ROOMS; ADMINISTRATION; LIBRARY; DINING; PLAYFIELD; PARKING; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN				675	
		TOTAL FUNDING	AGS		B	675B	
51A.	523012	PAHOA HIGH AND INTERMEDIATE SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CLASSROOM BUILDING, COVERED WALKWAYS, WASTEWATER SYSTEM, PARKING, RELOCATION OF EXISTING PORTABLES, SECURITY FENCE, SITE IMPROVEMENTS, AND APPURTENANCES.					
		DESIGN				5	
		CONSTRUCTION				4,825	
		EQUIPMENT				70	
		TOTAL FUNDING	AGS		B	4,900B	
52.	158001	PAWAA AREA SCHOOL, OAHU					
		PLANS FOR A NEW SCHOOL.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		PLANS					150
		TOTAL FUNDING	AGS		B		150B
53.	627006	PRINCESS NAHIENAENA ELEMENTARY SCHOOL, MAUI					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES. PROJECT SHALL BE IMPLEMENTED ON A DESIGN/BUILD BASIS.					
		PLANS				35	
		DESIGN				190	
		CONSTRUCTION				2,680	
		EQUIPMENT				40	
		TOTAL FUNDING	AGS			2,945C	C
53A.	627005	PRINCESS NAHIENAENA ELEMENTARY SCHOOL, MAUI					
		DESIGN FOR A CAFETORIUM FACILITY FOR PRINCESS NAHIENAENA ELEMENTARY SCHOOL, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN					150
		TOTAL FUNDING	AGS		B		150B
54.	351002	ROYAL KUNIA ELEMENTARY SCHOOL, OAHU					
		DESIGN FOR FIRST INCREMENT OF NEW SCHOOL; GROUND AND SITE IMPROVEMENTS AND APPURTENANCES.					
		DESIGN				675	
		TOTAL FUNDING	AGS			675B	B
55.	628004	UPCOUNTRY HIGH SCHOOL, MAUI					
		CONSTRUCTION FOR FIRST INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION				12,800	
		TOTAL FUNDING	AGS			12,800B	B
56.	628005	UPCOUNTRY HIGH SCHOOL, MAUI					
		DESIGN FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					425
		TOTAL FUNDING	AGS		B		425B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
57.	628007	UPCOUNTRY HIGH SCHOOL, MAUI					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION				6,575	
		EQUIPMENT				175	
		TOTAL FUNDING	AGS		B	6,750B	
58.	525008	WAIAKEA HIGH SCHOOL, HAWAII					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOMS; COVERED WALKWAYS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION				2,525	
		EQUIPMENT				40	
		TOTAL FUNDING	AGS			2,565B	B
58A.		WAIAKEA HIGH SCHOOL, HAWAII					
		DESIGN FOR AN ADMINISTRATION BUILDING, GROUND AND SITE IMPROVEMENTS, COVERED WALKWAYS, PARKING, RENOVATION OF PORTABLES FOR TEMPORARY ADMINISTRATION FUNCTIONS TO CLASSROOMS.					
		DESIGN					210
		TOTAL FUNDING	AGS		B		210B
58B.	235003	WAIALUA HIGH AND INTERMEDIATE SCHOOL, OAHU					
		DESIGN FOR THE EXPANSION OF THE CAFETORIUM, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN					150
		TOTAL FUNDING	AGS		B		150B
59.	325005	WAIANAE HIGH SCHOOL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		CONSTRUCTION				4,235	
		EQUIPMENT				50	
		TOTAL FUNDING	AGS			4,285B	B
60.	326001	WAIANAE INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS; EQUIPMENT AND					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN			185		
		CONSTRUCTION				2,820	
		EQUIPMENT				30	
		TOTAL FUNDING	AGS		185B	2,850B	
60A.	622001	WAIHEE ELEMENTARY SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN					1
		CONSTRUCTION					298
		EQUIPMENT					1
		TOTAL FUNDING	AGS		B		300B
60B.		WAIKELE ELEMENTARY SCHOOL, OAHU					
		DESIGN FOR THE FIRST INCREMENT OF THE NEW SCHOOL TO INCLUDE GROUND AND SITE IMPROVEMENTS; CLASSROOMS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					675
		TOTAL FUNDING	AGS		B		675B
61.	539001	WAIKOLOA ELEMENTARY SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FIRST INCREMENT; EQUIPMENT; GROUND AND SITE IMPROVEMENTS; PARKING; AND OTHER APPURTENANCES.					
		DESIGN				400	
		CONSTRUCTION				8,100	
		EQUIPMENT				150	
		TOTAL FUNDING	AGS			8,650B	B
62.	539002	WAIKOLOA ELEMENTARY SCHOOL, HAWAII					
		DESIGN FOR CLASSROOMS, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN					225
		TOTAL FUNDING	AGS		B		225B
62A.	623007	WAILUKU ELEMENTARY SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS; EQUIPMENT AND					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN					1
		CONSTRUCTION					598
		EQUIPMENT					1
		TOTAL FUNDING	AGS		B		600B
63.	528005	WAIMEA ELEMENTARY AND INTERMEDIATE SCHOOL, HAWAII					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOMS; COVERED WALKWAYS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION		2,505			
		EQUIPMENT		40			
		TOTAL FUNDING	AGS	2,545B			B
64.	330006	WAIPAHU HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN ADMINISTRATION BUILDING AND RENOVATION OF EXISTING ADMINISTRATION AREAS INTO CLASSROOMS.					
		DESIGN					1
		CONSTRUCTION		3,839			
		EQUIPMENT		10			
		TOTAL FUNDING	AGS	3,850B			B
65.	331007	WAIPAHU INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CLASSROOMS, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN		225			1
		CONSTRUCTION					3,344
		EQUIPMENT					50
		TOTAL FUNDING	AGS	225B			3,395B
65A.		WHEELER ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND/OR EXPANSION OF BUILDING B FOR AN ADMINISTRATION/ LIBRARY BUILDING. PROJECT TO INCLUDE THE CONSTRUCTION OF TEMPORARY FACILITIES FOR THE PRESENT ADMINISTRATION/LIBRARY, NECESSARY GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN					170
		CONSTRUCTION					1,600
		EQUIPMENT					30
		TOTAL FUNDING	AGS		B		1,800B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
66.	238001	WHEELER INTERMEDIATE SCHOOL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR CLASS-ROOMS; CONVERT BUILDING D TO CLASS-ROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		CONSTRUCTION		800			
		EQUIPMENT		20			
		TOTAL FUNDING	AGS	820B			B
67.		HANALEI ELEMENTARY SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CAFETORIUM, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN		224			
		CONSTRUCTION				3,247	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS	224B		2,705B	
			AGS	C		543C	
68.		HANALEI ELEMENTARY SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A LIBRARY, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN		196			
		CONSTRUCTION				2,815	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS	196B		2,816B	
69.		KALAHEO ELEMENTARY SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A LIBRARY, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN		200			
		CONSTRUCTION				2,864	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS	200B		2,865B	
70.		KAPAA ELEMENTARY SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN AUDITORIUM, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN		72			
		CONSTRUCTION				732	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		EQUIPMENT					1
		TOTAL FUNDING	AGS		72B		464B
			AGS		C		269C
71.		KAPAA ELEMENTARY SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CLASSROOM BUILDING, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN			100		
		CONSTRUCTION					1,132
		EQUIPMENT					1
		TOTAL FUNDING	AGS		100B		1,133B
72.		KAPAA ELEMENTARY SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CLASSROOM BUILDING, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN			85		
		CONSTRUCTION					892
		EQUIPMENT					1
		TOTAL FUNDING	AGS		85B		893B
73.		WAIMEA HIGH SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CLASSROOM BUILDING, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN			75		
		CONSTRUCTION					753
		EQUIPMENT					1
		TOTAL FUNDING	AGS		75B		754B
74.		ALIOLANI ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR RENOVATIONS INCLUDING RESTROOMS IN BUILDING A.					
		DESIGN			15		
		CONSTRUCTION			70		
		TOTAL FUNDING	AGS		85C		C
75.		402002 JAMES B. CASTLE HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW GYMNASIUM.					
		DESIGN			1		
		CONSTRUCTION			4,998		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		EQUIPMENT TOTAL FUNDING	AGS		1 5,000C		C
76.		ENCHANTED LAKE ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION OF AN AIR CONDITIONING SYSTEM FOR THE LIBRARY.					
		DESIGN			10		
		CONSTRUCTION			189		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		200C		C
76A.		EWA BEACH ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW CAFETORIUM FOR EWA BEACH ELEMENTARY SCHOOL.					
		DESIGN				200	
		CONSTRUCTION				2,599	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS		C	2,800C	
77.		GOVERNOR WALLACE RIDER FARRINGTON HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND/OR EXPANSION OF THE VOCATIONAL BUILDING AT FARRINGTON HIGH SCHOOL.					
		DESIGN			1		
		CONSTRUCTION			748		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		750C		C
77A.		GOVERNOR WALLACE RIDER FARRINGTON HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR VENTILATION IMPROVEMENTS TO FARRINGTON HIGH SCHOOL AUDITORIUM AND OTHER RELATED IMPROVEMENTS.					
		DESIGN				20	
		CONSTRUCTION				179	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS		C	200C	
78.		MAYOR JOSEPH J. FERN ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		FOR CEILING FANS AND OTHER RELATED IMPROVEMENTS.					
		DESIGN		10			
		CONSTRUCTION		29			
		EQUIPMENT		1			
		TOTAL FUNDING	AGS	40C			C
78A.		HEEIA ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND/OR EXPANSION OF THE HEEIA ELEMENTARY SCHOOL'S LIBRARY AND ADMINISTRATION BUILDINGS. PROJECT TO INCLUDE NECESSARY GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN					160
		CONSTRUCTION					901
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		1,062C
79.		HIGHLANDS INTERMEDIATE SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR GROUND AND SITE IMPROVEMENTS FOR EROSION AND DRAINAGE CONTROLS AT HIGHLANDS INTERMEDIATE SCHOOL.					
		DESIGN		50			
		CONSTRUCTION		580			
		TOTAL FUNDING	AGS	630C			C
80.		HILO HIGH SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE EXPANSION, RENOVATION, AND AIR CONDITIONING OF THE LIBRARY.					
		DESIGN		100			
		CONSTRUCTION		899			
		EQUIPMENT		1			
		TOTAL FUNDING	AGS	1,000C			C
80A.		IROQUOIS POINT ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND EXPANSION TO THE IROQUOIS POINT ELEMENTARY SCHOOL LIBRARY.					
		DESIGN					200
		CONSTRUCTION					1,699
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		1,900C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
81.		WILLIAM P. JARRETT INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATIONS TO THE LOCKER/SHOWER FACILITY AT JARRETT INTERMEDIATE SCHOOL.					
		DESIGN			1		
		CONSTRUCTION			68		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		70C		C
81A.		KAELEPULU ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR PARKING AND DRIVEWAY/ROADWAY IMPROVEMENTS FOR KAELEPULU ELEMENTARY SCHOOL. PROJECT TO INCLUDE NECESSARY GROUND AND SITE IMPROVEMENTS.					
		DESIGN					20
		CONSTRUCTION					180
		TOTAL FUNDING	AGS			C	200C
82.		KAHULUI ELEMENTARY SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A LIBRARY/ADMINISTRATION FACILITY, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES, AND THE RENOVATION OF EXISTING LIBRARY/ADMINISTRATION FACILITY TO CLASSROOMS.					
		DESIGN			90		
		CONSTRUCTION					1,109
		EQUIPMENT					1
		TOTAL FUNDING	AGS		90C		1,110C
83.		KAIMILOA ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE LIBRARY/ADMINISTRATION BUILDING(S), GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES, AND THE RENOVATION OF THE EXISTING LIBRARY/ADMINISTRATION SPACES TO CLASSROOMS.					
		DESIGN			204		
		CONSTRUCTION			3,545		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		3,750C		C
83A.		KAISER HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A RETAINING WALL AROUND THE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		SWIMMING POOL FACILITY TO PROVIDE PROTECTION AND SECURITY.					
		DESIGN					15
		CONSTRUCTION					130
		EQUIPMENT					5
		TOTAL FUNDING	AGS		C		150C
83B.		KAISER HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATIONS AND IMPROVEMENTS TO SCIENCE LABORATORIES AND CLASSROOMS.					
		DESIGN					75
		CONSTRUCTION					770
		EQUIPMENT					5
		TOTAL FUNDING	AGS		C		850C
84.		SAMUEL ENOKA KALAMA INTERMEDIATE SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A COVERED PLAYCOURT.					
		DESIGN				20	
		CONSTRUCTION				179	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS		200C		C
84A.		KALIHI KAI ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE KALIHI KAI ELEMENTARY SCHOOL LIBRARY, EQUIPMENT AND APPURTENANCES.					
		DESIGN					1
		CONSTRUCTION					298
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		300C
84B.		KAMILOIKI ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR A FENCE AT KAMILOIKI ELEMENTARY SCHOOL.					
		DESIGN					5
		CONSTRUCTION					24
		TOTAL FUNDING	AGS		C		29C
85.		KAPALAMA ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CAFETERIA FANS AT KAPALAMA ELEMENTARY SCHOOL.					
		DESIGN				15	
		CONSTRUCTION				44	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		EQUIPMENT TOTAL FUNDING	AGS		1 60C		C
85A.		KAPALAMA ELEMENTARY SCHOOL, OAHU  DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND/OR EXPANSION OF CARTER HALL TO SERVE AS A MULTI-PURPOSE FACILITY, GROUND AND SITE IMPROVEMENTS, UTILITY UPGRADES, EQUIPMENT AND APPURTENANCES.					
		DESIGN				250	
		CONSTRUCTION				2,100	
		EQUIPMENT				150	
		TOTAL FUNDING	AGS		C	2,500C	
85B.		KAPOLEI INTERMEDIATE SCHOOL (NEW), OAHU  PLANS FOR KAPOLEI INTERMEDIATE SCHOOL TO INCLUDE ENVIRONMENTAL IMPACT STATEMENT, SITE SELECTION, AND MASTER PLAN.					
		PLANS				150	
		TOTAL FUNDING	AGS		C	150C	
86.		KAUMANA ELEMENTARY SCHOOL, HAWAII  DESIGN AND CONSTRUCTION FOR A COVERED WALKWAY, PARKING AND DROP OFF AREA FOR KAUMANA ELEMENTARY SCHOOL.					
		DESIGN				30	
		CONSTRUCTION				270	
		TOTAL FUNDING	AGS		300C		C
86A.		KAWANANAKOA INTERMEDIATE SCHOOL, OAHU  DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF THE AUDITORIUM. PROJECT TO INCLUDE THE RECONSTRUCTION OF THE AUDITORIUM STAGE, NECESSARY INFRASTRUCTURE AND UTILITY UPGRADES, LIGHTING, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN				50	
		CONSTRUCTION				199	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS		C	250C	
86B.		KOKO HEAD ELEMENTARY SCHOOL, OAHU  DESIGN, CONSTRUCTION, AND EQUIPMENT					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		FOR RENOVATIONS AND IMPROVEMENTS TO THE SCHOOL FACILITIES. PROJECT TO INCLUDE, BUT NOT LIMITED TO, DRAINAGE IMPROVEMENTS, ROADWAY IMPROVEMENTS TO THE PARKING LOT, AND OTHER NECESSARY IMPROVEMENTS AND RENOVATIONS TO THE SCHOOL.					
		DESIGN					10
		CONSTRUCTION					105
		EQUIPMENT					3
		TOTAL FUNDING	AGS		C		118C
87.		KONAWAENA HIGH SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A COMMUNITY/SCHOOL ALL-WEATHER TRACK FOR WEST HAWAII. PROJECT TO INCLUDE A LIGHTING SYSTEM FOR THE TRACK AND FOOTBALL FIELD.					
		DESIGN				1	
		CONSTRUCTION				598	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS		600C		C
87A.		LEILEHUA HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW LIBRARY FACILITY. PROJECT TO INCLUDE NECESSARY GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN					175
		CONSTRUCTION					2,800
		EQUIPMENT					75
		TOTAL FUNDING	AGS		C		3,050C
88.		PRINCESS MIRIAM K. LIKELIKE ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR A GROUND SPRINKLER SYSTEM AT LIKELIKE ELEMENTARY SCHOOL.					
		DESIGN				20	
		CONSTRUCTION				130	
		TOTAL FUNDING	AGS		150C		C
89.		KING WILLIAM LUNALILO ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR A BUS DROP-OFF AREA FOR LUNALILO ELEMENTARY SCHOOL.					
		DESIGN				18	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		CONSTRUCTION TOTAL FUNDING	AGS	200 218C			C
90.		MAKAKILO ELEMENTARY SCHOOL, OAHU  DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION OF AN AIR CONDITIONING SYSTEM FOR THE LIBRARY.					
		DESIGN		10			
		CONSTRUCTION		189			
		EQUIPMENT		1			
		TOTAL FUNDING	AGS	200C			C
91.		MANANA ELEMENTARY SCHOOL, OAHU  DESIGN AND CONSTRUCTION FOR THE EXPANSION OF THE SCHOOL PARKING LOT AND EROSION AND DRAINAGE IMPROVEMENTS.					
		DESIGN		16			
		CONSTRUCTION		184			
		TOTAL FUNDING	AGS	200C			C
92.		MAUI WAENA INTERMEDIATE SCHOOL, MAUI  DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A LIBRARY FACILITY, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES, AND THE RENOVATION OF TEMPORARY LIBRARY TO CLASSROOMS.					
		DESIGN		150			
		CONSTRUCTION				1,949	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS	150C		1,950C	
93.		140007 PRESIDENT WILLIAM MCKINLEY HIGH SCHOOL, OAHU  DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF BUILDING A AND AUDITORIUM.					
		DESIGN		200			
		CONSTRUCTION		16,700			
		EQUIPMENT		100			
		TOTAL FUNDING	AGS	16,231B			B
			AGS	769C			C
94.		MILILANI HIGH SCHOOL, OAHU  DESIGN AND CONSTRUCTION FOR AN ALL-WEATHERIZED TRACK AND OTHER IMPROVEMENTS.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN			1		
		CONSTRUCTION			159		
		TOTAL FUNDING	AGS		160C		C
95.		MOANALUA INTERMEDIATE SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR PARKING AREA IMPROVEMENTS FOR ADDITIONAL STALLS TO INCLUDE VISITOR AND HANDI-CAPPED PARKING AREAS. PROJECT TO INCLUDE LANDSCAPING IMPROVEMENTS TO THE AREA AND OTHER RELATED WORK.					
		DESIGN			31		
		CONSTRUCTION			285		
		TOTAL FUNDING	AGS		316C		C
96.		MOKULELE ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE EXPANSION OF THE LIBRARY FACILITY AND OTHER RELATED WORK.					
		DESIGN			100		
		CONSTRUCTION			999		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		1,100C		C
97.		NOELANI ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A PORTABLE CLASSROOM FOR NOELANI ELEMENTARY SCHOOL.					
		DESIGN			1		
		CONSTRUCTION			98		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		100C		C
97A.		PAHOA HIGH AND INTERMEDIATE SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR DRAINAGE IMPROVEMENTS FOR THE SCHOOL FIELD. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, RECONSTRUCTION OF FIELD, INSTALLATION OF DRAINAGE IMPROVEMENTS AS NECESSARY, EQUIPMENT AND APPURTENANCES.					
		DESIGN					30
		CONSTRUCTION					269
		EQUIPMENT					1
		TOTAL FUNDING	AGS			C	300C
97B.		PAHOA HIGH AND INTERMEDIATE SCHOOL, HAWAII					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN FOR A NEW GYMNASIUM, GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		DESIGN					400
		TOTAL FUNDING	AGS		C		400C
97C.		PAIA ELEMENTARY SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATIONS AND IMPROVEMENTS TO THE SCHOOL FACILITIES. PROJECT TO INCLUDE NECESSARY UPGRADES TO MEET VARIOUS CODE REQUIREMENTS, UTILITY UPGRADE, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN					20
		CONSTRUCTION					179
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		200C
98.		PALOLO ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATIONS IN BUILDING B. PROJECT TO INCLUDE IMPROVEMENTS TO CABINETS AND SINKS.					
		DESIGN				5	
		CONSTRUCTION				29	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS			35C	C
98A.		PEARL RIDGE ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR DUST CONTROL AND NOISE ABATEMENT AT PEARL RIDGE ELEMENTARY SCHOOL.					
		DESIGN					1
		CONSTRUCTION					48
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		50C
99A.		PRINCESS NAHIENAENA ELEMENTARY SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN ADDITIONAL PORTABLE TO EXPAND THE EXISTING TEMPORARY CAFETERIA.					
		DESIGN					5
		CONSTRUCTION					100
		EQUIPMENT					15
		TOTAL FUNDING	AGS		C		120C



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
100.		PUOHALA ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR LIBRARY IMPROVEMENTS TO INCLUDE THE EXPANSION AND/OR AIR CONDITIONING OF THE FACILITY.					
		DESIGN			35		
		CONSTRUCTION			314		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		350C		C
100A.		RED HILL ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE CONSTRUCTION OF A COVERED WALKWAY BETWEEN BUILDINGS A AND B.					
		DESIGN					1
		CONSTRUCTION					48
		EQUIPMENT					1
		TOTAL FUNDING	AGS			C	50C
101.		PRESIDENT THEODORE ROOSEVELT HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A PORTABLE FACILITY TO ACCOMMODATE THE WRESTLING PROGRAM.					
		DESIGN			1		
		CONSTRUCTION			68		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		70C		C
102.		SALT LAKE ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A FACULTY CENTER FOR SALT LAKE ELEMENTARY SCHOOL.					
		DESIGN			37		
		CONSTRUCTION			305		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		343C		C
102A.		ALVAH A. SCOTT ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE EXPANSION OF THE SCHOOL LIBRARY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					160
		CONSTRUCTION					949
		EQUIPMENT					1
		TOTAL FUNDING	AGS			C	1,110C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
103.	409003	SUNSET BEACH ELEMENTARY SCHOOL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR A CAFETERIA AT SUNSET BEACH ELEMENTARY SCHOOL.					
		CONSTRUCTION		794			
		EQUIPMENT		1			
		TOTAL FUNDING	AGS	795C			C
104.		WAIHEE ELEMENTARY SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CAFETERIA/MULTI-PURPOSE BUILDING, COVERED WALKWAYS, GROUND AND SITE IMPROVEMENTS, AND OTHER RELATED WORK.					
		DESIGN		180			
		CONSTRUCTION		2,299			
		EQUIPMENT		1			
		TOTAL FUNDING	AGS	2,480C			C
104A.		WAIHEE ELEMENTARY SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR PORTABLE CLASSROOMS FOR WAIHEE ELEMENTARY SCHOOL.					
		DESIGN					30
		CONSTRUCTION					269
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		300C
105.		WAIPAHAU ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR PARKING AREA IMPROVEMENTS TO INCLUDE ADDITIONAL STALLS, DRAINAGE IMPROVEMENTS, DRIVEWAY, FENCING, DROP-OFF AND PICK-UP AREAS, AND RELATED WORK.					
		DESIGN		14			
		CONSTRUCTION		126			
		TOTAL FUNDING	AGS	140C			C
106.		WAIPAHAU INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR PLAYCOURTS AT WAIPAHAU INTERMEDIATE SCHOOL.					
		DESIGN		58			
		CONSTRUCTION		148			
		EQUIPMENT		1			
		TOTAL FUNDING	AGS	207C			C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>EDN407 - PUBLIC LIBRARIES</b>							
107.		HS-LIB HEALTH AND SAFETY REQUIREMENTS, STATEWIDE					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR HEALTH AND SAFETY PROJECTS AT LIBRARY FACILITIES. PROJECT TO INCLUDE IMPROVEMENTS FOR LIBRARY PATRONS, EMPLOYEES, AND MATERIALS WHICH INCLUDE, BUT NOT LIMITED TO, ASBESTOS ABATEMENT, FIRE PROTECTION, REMOVAL OF ARCHITECTURAL BARRIERS, IMPROVEMENTS TO BUILDINGS AND GROUNDS, PROVISIONS FOR ENVIRONMENTAL CONTROLS, AND THE REPLACEMENT OF HAZARDOUS FACILITIES.					
		PLANS			60		
		DESIGN			300		1
		CONSTRUCTION			2,000		553
		EQUIPMENT			40		1
		TOTAL FUNDING	AGS		2,400C		555C
108.		059-3 KIHEI PUBLIC LIBRARY, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW LIBRARY FACILITY WITH TEMPERATURE, HUMIDITY, AND ACOUSTICAL CONTROLS.					
		DESIGN			1		
		CONSTRUCTION			4,998		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		5,000C		C
109.		110-1 KOHALA PUBLIC LIBRARY, HAWAII					
		PLANS, LAND ACQUISITION, AND DESIGN FOR A NEW LIBRARY FACILITY WITH TEMPERATURE, HUMIDITY, AND ACOUSTICAL CONTROLS.					
		PLANS			30		
		LAND			100		
		DESIGN			70		300
		TOTAL FUNDING	AGS		200C		300C
110.		037-1 WAIPAHU PUBLIC LIBRARY, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW LIBRARY FACILITY WITH TEMPERATURE, HUMIDITY, AND ACOUSTICAL CONTROLS.					
		DESIGN			1		
		CONSTRUCTION			4,498		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		4,500C		C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
111.	109-1	MANOA PUBLIC LIBRARY, OAHU					
		PLANS, LAND ACQUISITION, AND DESIGN FOR THE EXPANSION OF MANOA PUBLIC LIBRARY. PROJECT TO INCLUDE BUT NOT LIMITED TO, TEMPERATURE, HUMIDITY, ACCOUSTICAL CONTROLS, AND RELATED PARKING IMPROVEMENTS.					
		PLANS		30			
		LAND		1			
		DESIGN		69		287	
		TOTAL FUNDING	AGS	100C		287C	
<b>UOH100 - UNIVERSITY OF HAWAII, MANOA</b>							
112.	181	UHM, KRAUSS HALL COMPLEX RENOVATION, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF THE KRAUSS HALL COMPLEX. PROJECT TO INCLUDE EQUIPMENT REMOVAL, DEMOLITION, FACILITY RENOVATION, NEW FURNITURE AND EQUIPMENT FOR OLD KRAUSS HALL AND FOR KRAUSS ANNEX.					
		DESIGN		70			
		CONSTRUCTION		1,858			
		EQUIPMENT		945			
		TOTAL FUNDING	AGS	2,873B			B
113.	279	UHM, REPLACEMENT OF TRANSFORMERS WITH PCB, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE REPLACEMENT OF TRANSFORMERS WITH PCB, A RECOGNIZED CARCINOGEN, TO MEET EPA STANDARDS.					
		PLANS		1			
		DESIGN		1			
		CONSTRUCTION		98			
		TOTAL FUNDING	AGS	100C			C
114.	280	UHM, MODIFICATIONS TO EXISTING AND/OR ADDITION OF FACIL TO MEET HOSHA, OAHU					
		DESIGN AND CONSTRUCTION FOR MODIFICATIONS TO EXISTING FACILITIES AND/OR CONSTRUCTION OF NEW FACILITIES TO MEET HAWAII OCCUPATIONAL SAFETY AND HEALTH ACT, OTHER CODE REQUIREMENTS, AND HEALTH AND SAFETY IMPROVEMENTS.					
		DESIGN		210			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		CONSTRUCTION		1,470			
		TOTAL FUNDING	AGS	1,680C			C
115.	691 UHM, WAIALEE LIVESTOCK RESEARCH CENTER, SEWAGE SYSTEM, OAHU						
		PLANS, DESIGN, AND CONSTRUCTION FOR A SECOND OXIDATION POND, REHABILITATION OF THE EXISTING POND AND OTHER NECESSARY IMPROVEMENTS TO PROVIDE A SEWAGE DISPOSAL SYSTEM THAT MEETS HEALTH CODE REQUIREMENTS.					
		PLANS		1			
		DESIGN		1			
		CONSTRUCTION		263			
		TOTAL FUNDING	AGS	265C			C
116.	M73 UHM, ELECTRICAL POWER DISTRIBUTION, PHASE II, OAHU						
		DESIGN AND CONSTRUCTION FOR THE NECESSARY ELECTRICAL INFRASTRUCTURE AS DETERMINED BY THE ELECTRICAL POWER DISTRIBUTION MASTER PLAN.					
		DESIGN		157			
		CONSTRUCTION		2,743			
		TOTAL FUNDING	AGS	2,900C			C
117.	532 UHM, INSTITUTE FOR ASTRONOMY, UNIVERSITY PARK FACILITY IN HILO, HAWAII						
		DESIGN AND CONSTRUCTION FOR A HEAD-QUARTER FACILITY FOR INSTITUTE FOR ASTRONOMY PERSONNEL AT THE UNIVERSITY PARK IN HILO. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		1,181			
		CONSTRUCTION		13,006			
		TOTAL FUNDING	AGS	4,187C			C
			AGS	10,000N			N
117A.	UHM, STUDENT HOUSING FACILITIES, OAHU						
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR VARIOUS RENOVATIONS AND IMPROVEMENTS TO STUDENT HOUSING COMPLEXES.					
		DESIGN				100	
		CONSTRUCTION				4,899	
		EQUIPMENT				1	
		TOTAL FUNDING	UOH		E	5,000E	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
117B.	P00080	UHM, AGRICULTURAL SCIENCES FACILITIES, PHASE III, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE COLLEGE OF TROPICAL AGRICULTURE AND HUMAN RESOURCES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN					2
		CONSTRUCTION					2,211
		EQUIPMENT					2
		TOTAL FUNDING	AGS		C		1,024C
			AGS		N		1,191N
<b>UOH210 - UNIVERSITY OF HAWAII, HILO</b>							
118.	440	UHH, UNIVERSITY PARK, PHASE II, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION FOR INFRASTRUCTURE IMPROVEMENTS AT THE UHH MAUKA CAMPUS SITE TO ACCOMMODATE THE FUTURE DEVELOPMENT AND EXPANSION OF UHH'S STUDENT HOUSING, ACADEMIC AND RESEARCH PROGRAMS. IMPROVEMENTS TO INCLUDE A TWO LANE ROADWAY IN EACH DIRECTION WITH MEDIAN THAT CONNECTS THE UNIVERSITY PARK TO KAWILI STREET. FUNDS MAY BE USED FOR THE RELOCATION OF EXISTING FACILITIES AFFECTED BY PROJECT.					
		PLANS					1
		DESIGN					549
		CONSTRUCTION					2,450
		TOTAL FUNDING	AGS				3,000C
119.	450	UHH, SEWER CONNECTION AND SANITARY IMPROVEMENTS, HAWAII					
		DESIGN AND CONSTRUCTION FOR SEWER CONNECTIONS TO THE COUNTY SEWAGE LINES, BASEBALL STADIUM RESTROOM IMPROVEMENTS, RENOVATION OF HALE KAUANOE BATHROOMS, AND OTHER SANITARY IMPROVEMENTS.					
		DESIGN					70
		CONSTRUCTION					300
		TOTAL FUNDING	AGS				370C
							750
							750C
<b>UOH310 - KAPIOLANI COMMUNITY COLLEGE</b>							
120.	B102	KDH, NEW CAMPUS DEVELOPMENT, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW FACILITIES INCLUDING SITEWORK, UTILITIES AND BUILDINGS, AND OFFSITE ROADWAY IMPROVEMENTS.					
					139		
					3,022		
					1		
		TOTAL FUNDING	AGS		3,162C		C
<b>UOH330 - WINDWARD COMMUNITY COLLEGE</b>							
121.		W100 WIN, CAMPUS DEVELOPMENT, PHASE I, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW FACILITIES INCLUDING SITEWORK, UTILITIES AND BUILDINGS, AND RENOVATIONS TO EXISTING FACILITIES.					
					1		180
					1		3,000
					1,373		1
		TOTAL FUNDING	AGS		1,375C		3,181C
<b>UOH500 - MAUI COMMUNITY COLLEGE</b>							
121A.		MAU, CAMPUS DEVELOPMENT, PHASE I, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW FACILITIES INCLUDING SITEWORK, UTILITIES, BUILDINGS, AND RENOVATION TO EXISTING FACILITIES.					
							1
							1
							2,059
		TOTAL FUNDING	AGS			C	2,061C
<b>UOH600 - KAUAI COMMUNITY COLLEGE</b>							
122.		K-53 KAU, PACIFIC CENTER FOR HUMAN DEVELOPMENT, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE PACIFIC CENTER FOR HUMAN DEVELOPMENT.					
					1		
					498		
					1		
		TOTAL FUNDING	AGS		500R		R

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
122A.		KAU, COMMUNITY THEATER, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE COMMUNITY THEATER.					
		DESIGN					1
		CONSTRUCTION					150
		EQUIPMENT					349
		TOTAL FUNDING	AGS			C	500C
<b>UOH900 - UOH, SYSTEM WIDE SUPPORT</b>							
123.		SYS, LONG RANGE DEVELOPMENT PLANS, WEST HAWAII CAMPUS, HAWAII					
		PLANS FOR LONG RANGE DEVELOPMENT PLANS FOR THE WEST HAWAII CAMPUS.					
		PLANS			300		
		TOTAL FUNDING	UOH		300C		C
123A.		531 SYS, MODIFICATIONS FOR THE HANDICAPPED, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR MODIFICATIONS FOR THE HANDICAPPED TO IDENTIFY AND CORRECT EXISTING ARCHITECTURAL BARRIERS AT ALL UNIVERSITY CAMPUSES, EXTENSION SITES, AND OTHER RELATED FACILITIES.					
		DESIGN					100
		CONSTRUCTION					5,000
		EQUIPMENT					1
		TOTAL FUNDING	AGS			C	5,101C
123B.		SYS, LONG RANGE DEVELOPMENT PLANS, UNIVERSITY OF HAWAII - WEST OAHU, OAHU					
		PLANS FOR LONG RANGE DEVELOPMENT PLANS FOR THE UNIVERSITY OF HAWAII - WEST OAHU.					
		PLANS					300
		TOTAL FUNDING	UOH			C	300C

**H. CULTURE AND RECREATION****AGS881 - PERFORMING & VISUAL ARTS EVENTS**

## 1. PALACE THEATRE, HILO, HAWAII

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RESTORATION, RENOVATION, AND



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		IMPROVEMENTS TO THE PALACE THEATRE TO BE USED AS A MULTIPURPOSE PERFORMING ARTS CENTER IN HILO.					
		DESIGN			1		
		CONSTRUCTION			398		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		400C		C
<b>LNR802 - HISTORIC PRESERVATION</b>							
		2. SALT PONDS AT HANAPEPE, KAUAI					
		PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO DRAINAGE AND LANDSCAPING AT THE SALT PONDS AT HANAPEPE.					
		PLANS			10		
		DESIGN			12		
		CONSTRUCTION			48		
		TOTAL FUNDING	LNR		70C		C
		3. ACQUISITION OF MOUNT OLOMANA, OAHU					
		LAND ACQUISITION FOR APPROXIMATELY 368.78 ACRES OF LAND AT MOUNT OLOMANA.					
		LAND			1,000		
		TOTAL FUNDING	LNR		1,000C		C
		3A. KONA COFFEE HERITAGE PARK, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE KONA COFFEE HERITAGE PARK FOR THE KONA HISTORICAL SOCIETY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					198
		TOTAL FUNDING	LNR			B	200B
<b>LNR806 - PARK DEVELOPMENT AND OPERATION</b>							
		4. F82 WAIMEA PIER, KAUAI					
		DESIGN AND CONSTRUCTION FOR PIER DUE TO HURRICANE DAMAGE. DEVELOPMENT OF ONSHORE PARK FACILITIES TO SERVICE VISITORS TO WAIMEA FISHING PIER. THE PROJECT INCLUDES IMPROVEMENTS TO A RECENTLY ACQUIRED AREA.					
		DESIGN			50		50

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		CONSTRUCTION			600		
		TOTAL FUNDING	LNR		650C		50C
5.	H09	LANDSCAPING AND PARK IMPROVEMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR MINOR ADDITIONS, RENOVATIONS, AND REPLACEMENTS TO PARK GROUNDS AND FACILITIES INCLUDING FACILITIES TO AID THE HANDICAPPED.					
		DESIGN			148		
		CONSTRUCTION			998		
		TOTAL FUNDING	LNR		1,146C		C
6.	F46	KOKEE/WAIMEA CANYON COMPLEX, KAUAI					
		DESIGN AND CONSTRUCTION FOR PARK DEVELOPMENT AND REPLACEMENT OF OLDER FACILITIES, IMPROVEMENT AND DEVELOPMENT OF THE PARK, AND THE ADDITION OF INTERPRETIVE FACILITIES.					
		DESIGN			100		
		CONSTRUCTION			1,000		
		TOTAL FUNDING	LNR		1,100C		C
7.	HULIHEE	PALACE, HAWAII					
		DESIGN AND CONSTRUCTION FOR THE RESTORATION AND RECONSTRUCTION OF HULIHEE PALACE.					
		DESIGN			25		
		CONSTRUCTION			225		
		TOTAL FUNDING	LNR		250C		C
8.	H91	WAIOLA STATE PARK, OAHU					
		PLANS AND DESIGN FOR THE FEASIBILITY AND PURCHASE OF WAIOLA IN CENTRAL OAHU TO BE USED TO DEVELOP A MULTI-PURPOSE RECREATIONAL, CULTURAL, AND SPORTS PARK COMPLEX.					
		PLANS			1		
		DESIGN			99		
		TOTAL FUNDING	LNR		100C		C
8A.	F27	HEEIA STATE PARK, OAHU					
		DESIGN AND CONSTRUCTION FOR THE DEVELOPMENT OF MATSON POINT AS A MAJOR PARK AND EDUCATIONAL/CULTURAL CENTER. THIS PROJECT IS DEEMED					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN					101
		CONSTRUCTION					701
		TOTAL FUNDING	LNR		C		2C
			LNR		N		800N
8B.		H70 MALAEKAHANA BEACH PARK, OAHU					
		DESIGN AND CONSTRUCTION FOR TOPOGRAPHICAL MAPPING AND INCREMENTAL DEVELOPMENT; INCLUDES POSSIBLE RENOVATION OF EXISTING IMPROVEMENTS FOR PARK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN					66
		CONSTRUCTION					501
		TOTAL FUNDING	LNR		C		2C
			LNR		N		565N
8C.		HAWAII NATURE CENTER, MAUI					
		LAND ACQUISITION FOR THE HAWAII NATURE CENTER AT IAO VALLEY, MAUI. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		LAND					1,000
		TOTAL FUNDING	LNR		C		1,000C
8D.		WAIKIKI NATATORIUM, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE RESTORATION OF THE WAIKIKI NATATORIUM AND RELATED IMPROVEMENTS.					
		PLANS					1
		DESIGN					298
		CONSTRUCTION					1
		TOTAL FUNDING	LNR		C		300C

LNR801 - OCEAN-BASED RECREATION

- 9. HC4171 KAHULUI LIGHT DRAFT NAVIGATION IMPROVEMENTS, MAUI

PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO EXISTING RAMP FACILITY TO INCLUDE AN ADDITIONAL RAMP LANE, LOADING DOCK, DEEPENING OF ENTRANCE CHANNEL, TURNING BASIN, AND RECONSTRUCTION OF THE BREAKWATER. THIS PROJECT IS DEEMED NECESSARY TO

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS			1		
		DESIGN			318		
		CONSTRUCTION			2,971		
		TOTAL FUNDING	LNR		906C		C
			LNR		2,384N		N
9A.	02S	STATEWIDE SEWER SYSTEM IMPROVEMENTS TO BOATING FACILITIES, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR VESSEL PUMPOUT STATIONS AND SEWER LINES AT VARIOUS BOATING FACILITIES, INCLUDES KEEHI AND NAWILIWILI BOAT HARBORS AND KAILUA PIER. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					140
		DESIGN					90
		CONSTRUCTION					600
		TOTAL FUNDING	LNR		B		207B
			LNR		N		623N
<b>AGS889 - SPECTATOR EVENTS &amp; SHOWS - ALOHA STADIUM</b>							
10.	S401	CORRECT CORRODED CONDITIONS AND OTHER DEFICIENCIES, PHASE III, OAHU					
		CONSTRUCTION FOR THE RENOVATION OF CORRODED CONDITIONS AND/OR REPLACE CORRODED STRUCTURES AND OTHER DEFICIENCIES INCLUDING ACCESSIBILITY FOR HANDICAPPED PERSONS, SAFETY, REMOVAL OF ASBESTOS MATERIALS AND OTHER MINOR IMPROVEMENTS FOR OPERATIONAL AND SECURITY REQUIREMENTS.					
		CONSTRUCTION			24,181		
		TOTAL FUNDING	AGS		2,181B		B
			AGS		22,000C		C
11.	S402	ALOHA STADIUM - MOVEMENT SYSTEM IMPROVEMENTS, PHASE I, OAHU					
		CONSTRUCTION FOR STRENGTHENING PIVOT POINTS.					
		CONSTRUCTION			400		
		TOTAL FUNDING	AGS		400B		B
12.	S408	ALOHA STADIUM - RESURFACE ACCESS ROADS, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN AND CONSTRUCTION FOR THE RESURFACING OF THE DETERIORATED ACCESS ROADS, PROVIDING IMPROVED DRAINAGE AND SAFER CONDITIONS FOR PEDESTRIAN TRAFFIC.					
		DESIGN			40		
		CONSTRUCTION					350
		TOTAL FUNDING	AGS		40B		350B
13.	S411	ALOHA STADIUM LOCKER ROOM IMPROVEMENTS, PHASE II, OAHU					
		CONSTRUCTION FOR THE RENOVATION OF LOCKERS INCLUDING SHOWERS, RESTROOMS, FLOORING, ELECTRICAL AND MECHANICAL SYSTEMS, AND OTHER ANCILLARY ROOMS.					
		CONSTRUCTION					1,900
		TOTAL FUNDING	AGS			B	1,900B
14.	S405	ALOHA STADIUM, CHILLER PLANT REPLACEMENT, OAHU					
		CONSTRUCTION FOR THE REPLACEMENT OF CHILLER PLANT AT ALOHA STADIUM FOR LOCKER ROOMS AND ADMINISTRATIVE OFFICES.					
		CONSTRUCTION			1,000		
		TOTAL FUNDING	AGS		1,000B		B
<b>I. PUBLIC SAFETY</b>							
<b>PSD405 - HAWAII COMMUNITY CORRECTIONAL CENTER</b>							
3.		HAWAII COMMUNITY CORRECTIONAL CENTER, HAWAII					
		CONSTRUCTION FOR THE HALE NANI SATELLITE FACILITY, PHASE II.					
		CONSTRUCTION			1,000		
		TOTAL FUNDING	AGS		1,000C		C
4.		HAWAII COMMUNITY CORRECTIONAL CENTER, HAWAII					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN INMATE HOUSING FACILITY AT THE HAWAII COMMUNITY CORRECTIONAL CENTER.					
		PLANS			220		
		DESIGN			1		1
		CONSTRUCTION			1,778		1,498

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		EQUIPMENT			1		1
		TOTAL FUNDING	AGS	2,000C			1,500C
<b>PSD408 - KAUAI COMMUNITY CORRECTIONAL CENTER</b>							
5A.		KAUAI COMMUNITY CORRECTIONAL CENTER, MINIMUM SECURITY COMPOUND, KAUAI					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A 80 BED MINIMUM SECURITY WORK FURLOUGH HOUSING COMPOUND ALONG WITH RELATED SUPPORT SPACES.					
		PLANS					1
		DESIGN					149
		CONSTRUCTION					1,349
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		1,500C
<b>PSD900 - GENERAL ADMINISTRATION</b>							
6.		NEW CORRECTIONAL FACILITY, HAWAII					
		PLANS FOR A SITE SELECTION AND FEASIBILITY STUDY OF A NEW 1,000 BED CORRECTIONAL FACILITY ON THE BIG ISLAND.					
		PLANS		250			
		TOTAL FUNDING	AGS	250C			C
6A.		HAWAII STATE PRISON AND KULANI FACILITY COMPLEX, HAWAII					
		PLANS FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT STUDY TO COVER DEVELOPMENT OF THE HAWAII STATE PRISON AND THE EXPANSION OF THE KULANI CORRECTIONAL FACILITY.					
		PLANS					450
		TOTAL FUNDING	AGS		C		450C
<b>LNR810 - PREVENTION OF NATURAL DISASTERS</b>							
7.		WAILUPE STREAM FLOOD CONTROL PROJECT, OAHU					
		PLANS AND DESIGN FOR A SOIL STABILIZATION AND FLOOD CONTROL FEASIBILITY STUDY FOR WAILUPE STREAM.					
		PLANS		10			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN				410	
		TOTAL FUNDING	LNR			420C	C

DEF110 - AMELIORATION OF PHYSICAL DISASTERS

- 8. HS-DOD HEALTH AND SAFETY REQUIREMENTS, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS OF DISASTER WARNING AND COMMUNICATION DEVICES, ALSO INCLUDES IMPROVEMENTS TO NATIONAL GUARD ARMORIES TO MEET OSHA DEFICIENCIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

PLANS			2	
LAND			2	
DESIGN			111	
CONSTRUCTION			1,010	
EQUIPMENT			320	
TOTAL FUNDING	AGS		1,245C	C
	AGS		200N	N

- 9. A-26 WAIAWA ARMY NATIONAL GUARD ARMORY ADDITION, OAHU

DESIGN AND CONSTRUCTION FOR AN ADDITION AND UPGRADING OF THE EXISTING WAIAWA ARMORY. ADDITION WILL BE A PERMANENT MASONRY CONSTRUCTION, INCLUDING ALL UTILITIES, ACCESS ROAD, PARKING AREAS, FENCING, AND OTHER SUPPORTING FEATURES REQUIRED TO COMPLETE THE FACILITY FOR OCCUPANCY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

DESIGN			310	50
CONSTRUCTION			6,659	
TOTAL FUNDING	AGS		2,402C	50C
	AGS		4,567N	N

- 10. A-33 ARMY NATIONAL GUARD ARMORY, KAUNAKAKAI, MOLOKAI

DESIGN AND CONSTRUCTION FOR A NATIONAL GUARD ARMORY FACILITY TO INCLUDE ALL UTILITIES, ACCESS ROAD, PARKING AREAS, AND OTHER SUPPORTING FEATURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN			25		
		CONSTRUCTION			100		
		TOTAL FUNDING	AGS		25C		C
			AGS		100N		N
10A.	A37	MAUI ARMY NATIONAL GUARD ARMORY COMPLEX, MAUI					
		PLANS FOR A MAJOR ARMORY COMPLEX TO CONSOLIDATE EXISTING FACILITY, INCLUDING ALL UTILITIES, ACCESS ROAD, PARKING AREAS, SECURITY FENCING AND OTHER SUPPORTING FEATURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					185
		TOTAL FUNDING	AGS			C	185C
<b>K. GOVERNMENT-WIDE SUPPORT</b>							
<b>GOV100 - OFFICE OF THE GOVERNOR</b>							
1.	G01	PROJECT ADJUSTMENT FUND, STATEWIDE					
		DESIGN FOR THE ESTABLISHMENT OF A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT (TO BE EXPENDED BY THE OFFICE OF THE GOVERNOR).					
		DESIGN			1		1
		TOTAL FUNDING	GOV		1C		1C
<b>GOV103 - STATEWIDE PLAN AND COORDINATION</b>							
2.	SAND ISLAND METC AND WATERFRONT IMPROVEMENT PROJECT, OAHU						
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE SAND ISLAND MARINE EDUCATION AND TRAINING CENTER (METC) AND OTHER AREA-WIDE WATERFRONT IMPROVEMENT PROJECTS IN FURTHERANCE OF THE HONOLULU WATERFRONT MASTER PLAN; TO INCLUDE THE BOAT MAINTENANCE FACILITY, PHASE II; AND ASSOCIATED INFRASTRUCTURE AND OTHER IMPROVEMENTS.					
		PLANS			1		
		DESIGN			399		
		CONSTRUCTION			4,100		
		EQUIPMENT					400
		TOTAL FUNDING	BED		4,500C		400C



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
3.		ROOSEVELT/STEVENSON AND LINCOLN RECREATIONAL COMPLEX, OAHU					
		PLANS FOR THE ROOSEVELT/STEVENSON AND LINCOLN RECREATION COMPLEX MASTER PLAN.					
		PLANS				50	
		TOTAL FUNDING	GOV			50C	C
<b>BED104 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY</b>							
4.		H73 KAKAAKO WATERFRONT PARK, OAHU					
		PLANS AND LAND ACQUISITION FOR THE DEVELOPMENT OF A WATERFRONT PARK, RECREATIONAL FACILITIES ON THE FORT ARMSTRONG-KEWALO PENINSULA, AND THE RELOCATION OF EXISTING USERS AND FACILITIES IN THE KAKAAKO WATERFRONT.					
		PLANS				1	
		LAND				7,700	
		TOTAL FUNDING	BED			7,701C	C
5.		HCD001 KAKAAKO COMMUNITY DEVELOPMENT DISTRICT, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR PLANNING, DEVELOPMENT AND PROJECT COSTS, AS DEFINED IN CHAPTER 206E, HAWAII REVISED STATUTES, FOR KAKAAKO COMMUNITY DEVELOPMENT DISTRICT. FUNDS MAY BE USED TO MATCH FEDERAL AND NON-STATE FUNDS, AS MAY BE AVAILABLE.					
		PLANS				2,432	2,323
		LAND				1	1
		DESIGN				1	1
		CONSTRUCTION				1	1
		TOTAL FUNDING	BED			2,435C	2,326C
6.		KAKAAKO COMMUNITY DEVELOPMENT DISTRICT, INCREMENTS 2, 3, AND 4, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO THE ROADWAY, DRAINAGE, SEWER, WATER, ELECTRICAL, TELEPHONE, AND CABLE TELEVISION SYSTEM.					
		PLANS				1	1
		LAND				1	1
		DESIGN				1	1
		CONSTRUCTION				9,998	8,997
		TOTAL FUNDING	BED			10,000C	9,000C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
6A.	HCD002	HAWAII CHILDREN'S MUSEUM OF ARTS, CULTURE, SCIENCE AND TECHNOLOGY, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE ADAPTIVE REUSE OF THE KEWALO INCINERATOR, SITE 2, OAHU. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION				3,998	
		TOTAL FUNDING	BED		C		4,000C
<b>LNR101 - PUBLIC LANDS MANAGEMENT</b>							
7.	E85	INDUSTRIAL PARKS, STATEWIDE					
		PLANS FOR FEASIBILITY AND DEVELOPMENT STUDIES FOR THE DEVELOPMENT OF INDUSTRIAL PARKS STATEWIDE.					
		PLANS				1,200	
		TOTAL FUNDING	LNR			1,200B	B
8.	E58	WAIKIKI SEAWALL WALKWAY REHABILITATION, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE REHABILITATION AND RENOVATION OF EXISTING SEAWALL WALKWAY TO INCLUDE THE INSTALLATION AND REPAIR OF RAILINGS.					
		PLANS				10	
		DESIGN				35	
		CONSTRUCTION				500	
		TOTAL FUNDING	LNR			545B	B
9.		RESIDENTIAL SUBDIVISION FOR HAWAII STATE HOSPITAL AND FEE SIMPLE LOTS, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE SUBDIVISION OF THE PROPERTY INTO STATE HOSPITAL DOCTORS' RESIDENCES AND FEE SIMPLE RESIDENTIAL LOTS TO FIRST TIME HOMEBUYERS.					
		PLANS					1
		LAND					1
		DESIGN					128
		CONSTRUCTION					1,350
		TOTAL FUNDING	LNR		B		1,480B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
9A.		E88 MASTER PLANNING OF 1,100 ACRES OF EAST KAPOLEI LANDS, HONOULIULI, EWA, OAHU					
		PLANS FOR THE PREPARATION OF ENVIRONMENTAL ASSESSMENT/IMPACT STATEMENT AND MASTER PLAN INCLUDING A SHORT TERM/LONG TERM COMPREHENSIVE DEVELOPMENT STRATEGY FOR THE USE OF THE LANDS.					
		PLANS					150
		TOTAL FUNDING	LNR		B		150B
9B.		ACQUISITION OF LAND IN WAIOMAO, PALOLO, OAHU					
		PLANS AND LAND ACQUISITION FOR THE PURCHASE OF THREE PARCELS OF LAND (TMK: 3-4-29:33; 3-4-29:34; 3-4-29:35) IN WAIOMAO, PALOLO.					
		PLANS					1
		LAND					1,254
		TOTAL FUNDING	LNR		B		1,255B
9C.		ACQUISITION OF LAND IN KALIHI VALLEY, OAHU					
		PLANS AND LAND ACQUISITION FOR THE PURCHASE OF THE PARCEL OF LAND LOCATED ABOVE KALIHI ELEMENTARY SCHOOL (TMK: 1-4-07:01) FOR THE PRESERVATION OF THE KALIHI VALLEY HILLSIDE AND/OR FOR THE FUTURE DEVELOPMENT AS A MIXED-USE COMMUNITY PARK.					
		PLANS					1
		LAND					1,199
		TOTAL FUNDING	LNR		C		1,200C
<b>AGS203 - RISK MANAGEMENT</b>							
10.		C104 HURRICANE INIKI RELIEF, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REPLACEMENT OF STATE BUILDINGS TOTALLY DESTROYED BY HURRICANE INIKI WITH IN-KIND AND UPGRADED STRUCTURES.					
		DESIGN					1,026
		CONSTRUCTION					9,221
		EQUIPMENT					1
		TOTAL FUNDING	AGS				10,248W
<b>AGS221 - CONSTRUCTION</b>							

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
11.	B27	ADVANCE PLANNING, STATEWIDE					
		PLANS FOR THE PROVISION OF ASSISTANCE TO THE PUBLIC, STATE AND COUNTIES IN MATTERS RELATING TO PUBLIC WORKS DIVISION. IT INCLUDES PREPARATION OF REPORTS, STUDIES, INVENTORIES, REVIEWS AND PERFORMANCE OF ALL NECESSARY ACTIVITIES TO CARRY OUT DAGS FUNCTIONS.					
		PLANS			300		300
		TOTAL FUNDING	AGS		300C		300C
12.	A39B	KAUNAKAKAI CIVIC CENTER, PHASE I AND II, MOLOKAI					
		CONSTRUCTION AND EQUIPMENT FOR INTERIOR IMPROVEMENTS AND OTHER RELATED AREAS OF THE KAUNAKAKAI CIVIC CENTER, PHASE I AND II.					
		CONSTRUCTION			1,770		
		EQUIPMENT					30
		TOTAL FUNDING	AGS		1,770C		30C
13.	B101M	HEALTH AND SAFETY REQUIREMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR MITIGATION OF HAZARDOUS MATERIALS FROM STATE FACILITIES AND TO RENOVATE STATE FACILITIES TO MEET CURRENT CODE REQUIREMENTS, STATEWIDE.					
		DESIGN			160		
		CONSTRUCTION			101		300
		TOTAL FUNDING	AGS		261C		300C
14.	C10409	STATE CAPITOL DIST ASBESTOS MITIGATION, AIR COND, AND OTHER IMPROVEMENTS, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REPLACEMENT OF GYPSUM BOARD WALLS, TOILET WALLS, ELECTRICAL AND MECHANICAL ITEMS REMOVED BY UNANTICIPATED ASBESTOS MITIGATION WORK; REPLACEMENT OF UNKNOWN DETERIORATED BUILDING ITEMS; REVISIONS DUE TO SPACE REALLOCATION AND REVISIONS DUE TO USER FUNCTIONAL USE UPDATING.					
		DESIGN					1
		CONSTRUCTION			2,518		5,598
		EQUIPMENT					1
		TOTAL FUNDING	AGS		2,518C		5,600C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
15.	C10410	STATE CAPITOL BUILDING, OAHU					
		PLANS, DESIGN, AND EQUIPMENT FOR INTERIOR SPACE PLANNING/DESIGN TO ACCOMMODATE THE RELOCATION OF STAFF TO THE STATE CAPITOL BUILDING, CAPITOL CENTER, AND LEIOPAPA A KAMEHAMEHA BUILDING. THE WORK INCLUDES SPACE ASSIGNMENTS, MOVE-BACK COORDINATION, FURNITURE AND EQUIPMENT LAYOUTS, AND OTHER RELATED TASKS.					
		PLANS			1		
		DESIGN			1,383		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		1,385C		C
16.		HAWAII THEATRE CENTER RESTORATION AND RENOVATION, OAHU					
		CONSTRUCTION FOR THE RESTORATION AND RENOVATION OF THE HAWAII THEATRE CENTER, TO BE EXPENDED BY THE HAWAII THEATRE CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		CONSTRUCTION			2,000		1,000
		TOTAL FUNDING	AGS		2,000C		1,000C
16A.	B28	STATE OFFICE BUILDING REMODELING, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR REMODELING AND UPGRADING OF OFFICES OCCUPIED BY STATE AGENCIES IN STATE OWNED SPACE STATEWIDE, TO PROVIDE ADEQUATE SPACE FOR AGENCIES TO ACCOMMODATE THEIR OPERATIONAL REQUIREMENTS. WORK INCLUDES REMODELING FOR REORGANIZATION, PROGRAM CHANGES, STAFFING CHANGES, CORRECTION OF INEFFICIENT OFFICE LAYOUTS, OSHA REGULATIONS, PLUMBING, ELEVATORS, ETC.					
		DESIGN					80
		CONSTRUCTION					170
		TOTAL FUNDING	AGS			C	250C
16B.	D101	ENVIRONMENTAL PROTECTION AGENCY'S GREEN LIGHTS PROGRAM, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE INSTALLATION OF ENERGY EFFICIENT LIGHTING IN EXISTING STATE BUILDINGS WHERE IT IS ECONOMICALLY FEASIBLE; TO MEASURE AND REPORT ON THE ELECTRICITY					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		SAVINGS ACHIEVED; AND TO ENCOURAGE HAWAII'S PRIVATE SECTOR TO PARTICIPATE IN THE GREEN LIGHTS PROGRAM.					
		PLANS					25
		DESIGN					39
		CONSTRUCTION					270
		TOTAL FUNDING	AGS		C		334C
16C.	C79	KAPOLEI STATE OFFICE BUILDING NO. 1, OAHU					
		LAND ACQUISITION FOR THE DESIGN AND CONSTRUCTION OF THE KAPOLEI STATE OFFICE BUILDING NO. 1 VIA LEASE BACK/ PURCHASE OPTION AGREEMENT WITH PRIVATE DEVELOPER SELECTED BY REQUEST FOR PROPOSAL (RFP) PROCESS.					
		LAND					1
		TOTAL FUNDING	AGS		C		1C
<b>SUB201 - CITY AND COUNTY OF HONOLULU</b>							
17.		MOANALUA ROAD, OAHU					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO MOANALUA ROAD.					
		LAND				1	
		DESIGN				375	
		CONSTRUCTION				1,750	
		TOTAL FUNDING	CCH			2,126C	C
17A.		DRAINAGE IMPROVEMENTS FOR 16TH AND 17TH AVENUES, OAHU					
		PLANS, LAND ACQUISITION, AND DESIGN FOR DRAINAGE IMPROVEMENTS FOR 16TH AND 17TH AVENUES, EKAHA AND KEANU STREET AREA.					
		PLANS					100
		LAND					1
		DESIGN					149
		TOTAL FUNDING	CCH		C		250C
17B.		SALT LAKE BOULEVARD, PHASE I, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO SALT LAKE BOULEVARD, PHASE I.					
		DESIGN					1
		CONSTRUCTION					1,199
		TOTAL FUNDING	CCH		C		1,200C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
17C.		WAILUPE VALLEY EARTH MOVEMENT STUDY, OAHU					
		PLANS FOR A EARTH MOVEMENT STUDY INVOLVING A SUBSURFACE INVESTIGATION INCLUDING DRILLING, MONITORING, AND EVALUATION OF THE AREA ABOVE AHUWALE PLACE IN WAILUPE VALLEY.					
		PLANS					200
		TOTAL FUNDING	CCH		C		200C
17D.		HONOLULU POLICE DEPARTMENT, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE UPGRADING OF THE TELECOMMUNICATIONS SYSTEM OF THE HONOLULU POLICE DEPARTMENT.					
		DESIGN					1
		CONSTRUCTION					3,298
		EQUIPMENT					1
		TOTAL FUNDING	CCH		C		3,300C
SUB301 - COUNTY OF HAWAII							
18.		ALENAIO FLOOD CONTROL, HAWAII					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A FLOOD CONTROL SYSTEM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					1
		LAND					1
		DESIGN					1
		CONSTRUCTION					4,496
		EQUIPMENT					1
		TOTAL FUNDING	COH				4,500C
19.		OLD KONA AIRPORT PARK CANOE SHEDS AND CLUBHOUSES, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATIONS AND IMPROVEMENTS FOR THE OLD KONA AIRPORT PARK CANOE SHEDS AND/OR CLUBHOUSES.					
		DESIGN					1
		CONSTRUCTION					498
		EQUIPMENT					1
		TOTAL FUNDING	COH				500C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
20.		KOHALA WATER SYSTEM, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION FOR WELLS, RESERVOIRS AND TRANSMISSION PIPELINE AND OTHER INCIDENTAL AND APPURTENANT WORK.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			998		
		TOTAL FUNDING	COH		1,000C		C
21.		PUUKAPU WELL DEVELOPMENT AND WATER SYSTEM, HAWAII					
		DESIGN AND CONSTRUCTION FOR WELL DEVELOPMENT AND WATER SYSTEM FOR THE RESIDENTIAL HOME LOTS AT PUUKAPU.					
		DESIGN			10		
		CONSTRUCTION			800		
		TOTAL FUNDING	COH		810C		C
21A.		FIRE DEPARTMENT ADMINISTRATION BUILDING, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A FIRE DEPARTMENT ADMINISTRATION BUILDING.					
		DESIGN					1
		CONSTRUCTION					486
		EQUIPMENT					1
		TOTAL FUNDING	COH			C	488C
21B.		PAPAIKOU WASTEWATER TREATMENT SYSTEM, HAWAII					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE PAPAIKOU WASTE-WATER TREATMENT SYSTEM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					391
		EQUIPMENT					1
		TOTAL FUNDING	COH			C	394C
21C.		PIIHONUA RESERVOIR AND TRANSMISSION LINES, HAWAII					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE PIIHONUA RESERVOIR AND TRANSMISSION					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		LINES TO ACCOMMODATE ADDITIONAL WATER USAGE IN HILO.					
		PLANS					1
		LAND					1
		DESIGN					1
		CONSTRUCTION					1,096
		EQUIPMENT					1
		TOTAL FUNDING	COH		C		1,100C
21D.		FRANCIS WONG STADIUM, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR LIGHTING IMPROVEMENTS AT FRANCIS WONG STADIUM.					
		DESIGN					1
		CONSTRUCTION					167
		EQUIPMENT					1
		TOTAL FUNDING	COH		C		169C
21E.		MAMO THEATER, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF MAMO THEATER.					
		DESIGN					1
		CONSTRUCTION					398
		EQUIPMENT					1
		TOTAL FUNDING	COH		C		400C
<b>SUB401 - COUNTY OF MAUI</b>							
22.		MAUI COMMUNITY ARTS AND CULTURAL CENTER, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE MAUI COMMUNITY ARTS AND CULTURAL CENTER.					
		DESIGN			1		1
		CONSTRUCTION			998		498
		EQUIPMENT			1		1
		TOTAL FUNDING	COM		1,000C		500C
23.		LOWER KULA WATER SYSTEM, MAUI					
		DESIGN AND CONSTRUCTION FOR THE UPGRADE OF THE PIIHOLO RESERVOIR AND RELATED IMPROVEMENTS FOR THE LOWER KULA WATER SYSTEM. PROJECT SHALL INCLUDE WATER IMPROVEMENTS FOR AGRICULTURE, HAWAIIAN HOME LANDS, AND OTHER STATE PROJECTS.					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		DESIGN		200			
		CONSTRUCTION		1,800			
		TOTAL FUNDING	COM	2,000C			C
24.		FRONT STREET INFRASTRUCTURE IMPROVEMENTS IN LAHAINA, MAUI					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE EXISTING INFRASTRUCTURE IN LAHAINA'S HISTORIC DISTRICT.					
		DESIGN		200			
		CONSTRUCTION		800			
		TOTAL FUNDING	COM	1,000C			C
24A.		KIHEI REGIONAL PARK, MAUI					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE DEVELOPMENT OF A COMMUNITY CENTER FACILITY IN CONJUNCTION WITH THE COUNTY OF MAUI.					
		PLANS					1
		DESIGN					99
		CONSTRUCTION					150
		TOTAL FUNDING	COM		C		250C
24B.		MAUI POLICE DEPARTMENT, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE UPGRADING OF THE TELECOMMUNICATIONS SYSTEM OF THE MAUI POLICE DEPARTMENT.					
		DESIGN					1
		CONSTRUCTION					1,798
		EQUIPMENT					1
		TOTAL FUNDING	COM		C		1,800C
24C.		MOLOKAI SLAUGHTERHOUSE, MOLOKAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REPLACEMENT OF THE MOLOKAI SLAUGHTERHOUSE FACILITY.					
		DESIGN					1
		CONSTRUCTION					498
		EQUIPMENT					1
		TOTAL FUNDING	COM		C		500C
24D.		MOLOKAI COOLING PLANT, MOLOKAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE MOLOKAI COOLING PLANT					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
		INCLUDING PACKING SHED AND OTHER IMPROVEMENTS TO THE PLANT.					
		DESIGN					1
		CONSTRUCTION					7
		EQUIPMENT					37
		TOTAL FUNDING	COM		C		45C
24E.		MAUI CENTRAL PARK, MAUI					
		PLANS AND DESIGN FOR THE MAUI CENTRAL PARK.					
		PLANS					1
		DESIGN					499
		TOTAL FUNDING	COM		C		500C
<b>SUB501 - COUNTY OF KAUAI</b>							
25.		KOLOA REFUSE TRANSFER STATION, KAUAI					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A SOLID WASTE TRANSFER STATION MAKAI OF KOLOA ROAD.					
		PLANS			1		1
		LAND		996			1
		DESIGN		1			1
		CONSTRUCTION		1			1,797
		EQUIPMENT		1			200
		TOTAL FUNDING	COK	1,000C			2,000C
26.		EMERGENCY HOUSING, KAUAI					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR EMERGENCY HOUSING ON KAUAI.					
		PLANS			1		1
		LAND		650			550
		DESIGN		347			1
		CONSTRUCTION		1			447
		EQUIPMENT		1			1
		TOTAL FUNDING	COK	1,000C			1,000C
27.		MOLOAA FARMERS COOPERATIVE, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE MOLOAA FARMER'S COOPERATIVE PACKING HOUSE.					
		DESIGN			1		
		CONSTRUCTION			33		
		EQUIPMENT			1		
		TOTAL FUNDING	COK		35C		C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
27A.		KOLOA/POIPU BYPASS ROAD, KAUAI					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR RIGHT-OF-WAY ACQUISITION AND A BYPASS ROADWAY BETWEEN KOLOA AND POIPU.					
		PLANS					1
		LAND					1
		DESIGN					1
		CONSTRUCTION				1,997	
		TOTAL FUNDING	COK		C		2,000C

SECTION 6. PART V, Act 289, Session Laws of Hawaii 1993, is amended:

(1) By adding a new section to read as follows:

“SECTION 130.1. Provided that of the revenue bond funds appropriation for Hilo international airport (TRN 111), the sum of \$3,496,000 for fiscal year 1994-1995 shall be used for design, construction, and equipment for a temporary facility for the Hawaii aviation training center; provided further that no funds shall be expended until such time that the federal aviation administration of the United States department of transportation rules that the user of the facility may be excluded from paying market lease rent and capital recovery cost; provided further that no funds shall be expended until the department of transportation and the university of Hawaii agree to terms on the lease of the facility; and provided further that the department of transportation shall submit a report including the aforementioned ruling by the federal aviation administration, lease rent agreement, source of funds to pay for the lease rent, and status of the project no later than twenty days prior to the convening of the regular session of 1995.”

(2) By adding a new section to read as follows:

“SECTION 130.2. Provided that of the special funds appropriation for Kauai highways (TRN 561), the sum of \$15,750,000 for fiscal year 1994-1995 shall be used for land acquisition, design, construction, and equipment for improvements to Kuhio highway, Hanamaulu to Kapaa; provided further that the department of transportation shall not expend more than \$4,000,000 for a temporary detour of Kuhio highway between Haleilio road and Kawaihau road; and provided further that based on the determination that the present traffic conditions on Kuhio highway justify the detour pursuant to Chapter 264, Hawaii Revised Statutes, the director of transportation shall enter into an agreement with Amfac/JMB incorporated/Lihue plantation stipulating the terms and conditions concerning the temporary detour, as well as any other terms and conditions necessary to facilitate the purposes of providing for the temporary detour, under the Hawaii Revised Statutes, as amended.”

(3) By adding a new section to read as follows:

“SECTION 130.3. Provided that of the special funds appropriation for forests and wildlife resources (LNR 402), the sum of \$60,000 for fiscal year 1994-1995 shall be used for design and construction for an emergency power generator for the rainbow microwave system on Mauna Loa; and provided further that the special funds shall be paid from the department of land and natural resources’ special land and development fund.”

(4) By adding a new section to read as follows:

“SECTION 130.4. Provided that of the special funds appropriation for Leahi hospital (HTH 242), the sum of \$151,000 for fiscal year 1994-1995 shall be used for plans, design, and construction for a new tuberculosis inpatient unit and support services; provided further that the special funds shall be paid from the Leahi hospital facility administration fund; provided further that the schematic design shall not proceed beyond thirty percent completion unless the department of health receives concurrence and approval of the designated site from the university of Hawaii; and provided further that the department of health shall submit a report on the project status, site, and use of the facility no later than twenty days prior to the convening of the regular session of 1995.”

(5) By adding a new section to read as follows:

“SECTION 130.5. Provided that of the general obligation bond fund appropriation for general administration (HTH 907), the sum of \$100,000 for fiscal year 1994-1995 shall be used for plans, design, construction, and equipment for the Waimanalo health center; provided further that the department of health is authorized to seek private contributions or utilize special funds from the office of Hawaiian affairs; and provided further that no funds shall be expended unless matched on a dollar-for-dollar basis with private contributions, special funds or a combination thereof.”

(6) By adding a new section to read as follows:

“SECTION 131.1. Provided that in the event that currently authorized appropriations specified for school based budgeting (EDN 100) capital improvements program projects listed in this Act or in any other act currently authorized by the legislature are insufficient, regardless of means of finance, the governor may make supplemental allotments from the educational facilities improvement special fund project adjustment fund appropriated in part II and described in part IV of this Act; and provided further that allotments from the educational facilities improvement special fund project adjustment fund may be made to supplement any currently authorized school based budgeting capital improvements program cost element.”

(7) By adding a new section to read as follows:

“SECTION 131.2. Provided that any amount appropriated for any capital improvements program project authorized in part II and listed in formal education, part G of part IV of this Act and funded from the state educational facilities improvement special fund and is in excess of the amount required to complete the

project, such excess funds may be expended with the approval of the governor for any or all of the following projects and purposes:

- (1) Kapaa intermediate school (new), Kauai  
Design, construction, and equipment for first increment of the new school to include ground and site improvements, equipment and appurtenances.
- (2) Kapaa II elementary school (new), Kauai  
Design, construction, and equipment for the new school to include ground and site improvements, equipment and appurtenances.
- (3) Waimea elementary and intermediate school, Hawaii  
Design, construction, and equipment for the expansion of the cafeteria, ground and site improvements, equipment and appurtenances.
- (4) Kanoelani elementary school, Oahu  
Design, construction, and equipment for the administration/library building(s) and renovation of existing temporary administration and library into classrooms, ground and site improvements, equipment and appurtenances.
- (5) Waiakea high school, Hawaii  
Design, construction, and equipment for the administration building, ground and site improvements, covered walkways, parking, renovation of portables for temporary administration functions to classrooms, equipment and appurtenances.
- (6) Kaleiopuu elementary school, Oahu  
Design, construction, and equipment for the administration/library building(s) and renovation of temporary administration and library into classrooms, ground and site improvements, equipment and appurtenances.
- (7) Keonepoko elementary school, Hawaii  
Design, construction, and equipment for a cafeteria, ground and site improvements, drainage improvements, equipment and appurtenances, and renovation of temporary facility into classrooms.
- (8) Waialua high and intermediate school, Oahu  
Design, construction, and equipment for the expansion of the cafeteria, ground and site improvements, equipment and appurtenances.
- (9) Kamaile elementary school, Oahu  
Design, construction and equipment for the administration/library building(s) and renovation of temporary administration and library into classrooms, ground and site improvements, equipment and appurtenances.
- (10) Mountain View elementary school, Hawaii  
Design, construction, and equipment for a cafeteria and renovation of temporary dining room into classrooms, covered walkways,

parking, ground and site improvements, equipment and appurtenances.

- (11) Lahaina intermediate school, Maui  
Design, construction, and equipment for a physical education locker/shower and playfield, ground and site improvements, appurtenances, and renovation of existing temporary portables to classrooms.
- (12) Lokelani intermediate school, Maui  
Design and construction for a playfield, drainage improvements, ground and site improvements, and appurtenances.
- (13) Laie elementary school, Oahu  
Design, construction, and equipment for the expansion of the cafeteria, ground and site improvements, equipment and appurtenances.
- (14) Nanakuli elementary school, Oahu  
Design, construction, and equipment for the administration/library building(s) and renovation of temporary administration and library portables into classrooms, ground and site improvements, equipment and appurtenances.
- (15) Waiiau elementary school, Oahu  
Design, construction, and equipment for the administration/library building(s) and renovation of temporary administration and library portables into classrooms, ground and site improvements, equipment and appurtenances.
- (16) Mountain View elementary school, Hawaii  
Design, construction, and equipment for a classroom building, ground and site improvements, covered walkways, equipment and appurtenances.
- (17) Baldwin high school, Maui  
Design, construction, and equipment for a gymnasium, ground and site improvements, parking, equipment and appurtenances.
- (18) Makalapa elementary school, Oahu  
Design, construction, and equipment for an administration building, renovation of temporary administration facility into classrooms, ground and site improvements, equipment and appurtenances.
- (19) Kalama intermediate school, Maui  
Design, construction, and equipment for a library building and renovation of temporary library into classrooms, ground and site improvements, equipment and appurtenances.
- (20) Keaau elementary and intermediate school, Hawaii  
Design, construction, and equipment for a cafeteria, renovation of the temporary dining room into classrooms, ground and site improvements, equipment and appurtenances.”

(8) By adding a new section to read as follows:

“SECTION 131.3. Provided that the department of education and the department of accounting and general services shall accelerate the design of the Kapaa intermediate school (new), Kauai; provided further that upon completion of the design of the school, the department of education shall extend priority on the construction of school pursuant to section 131.2 (section number for above proviso) of this Act; and provided further that the department of accounting and general services shall accelerate the plans, land acquisition, and design for the Kapaa II elementary school (new), Kauai.”

(9) By adding a new section to read as follows:

“SECTION 132.1. Provided that of the special funds appropriation for historic preservation (LNR 802), the sum of \$200,000 for fiscal year 1994-1995 shall be used for plans, design, and construction for the Kona coffee heritage park; and provided further that the special funds shall be paid from the department of land and natural resources’ Hawaii historic preservation special fund.”

(10) By adding a new section to read as follows:

“SECTION 132.2. Provided that of the general obligation bond fund appropriation for statewide plan and coordination (GOV 103), the department of business, economic development and tourism is authorized to establish three temporary positions to provide necessary staff for the Honolulu waterfront improvement project; provided further that the department of business, economic development and tourism is authorized to expend such sums as may be necessary for these positions from the Honolulu waterfront improvement project authorized in Part II and listed in Part IV of this Act; and provided further that these positions shall terminate upon the completion of the Honolulu waterfront improvement project.”

(11) By adding a new section to read as follows:

“SECTION 132.3. Provided that of the general obligation bond fund appropriation for Hawaii community development authority (BED 104), the sum of \$4,000,000 for fiscal year 1994-1995 shall be used for plans, design, and construction for the Hawaii children’s museum of arts, culture, science and technology for the stabilization and renovation of the Kewalo incinerator; and provided further that no state grant funds, pursuant to Chapter 42D, Hawaii Revised Statutes, shall be expended for the purpose of hazardous waste cleanup, exhibits, furniture, equipment, administrative costs, and consultant services for exhibits.”

(12) By adding a new section to read as follows:

“SECTION 132.4. Provided that of the special funds appropriation for public lands management (LNR 101), the sum of \$1,480,000 for fiscal year 1994-1995 shall be used for plans, land acquisition, design, and construction for residential subdivision for Hawaii state hospital and fee simple lots; and provided further that the special funds shall be paid from the department of land and natural resources’ special land and development fund.”



(13) By adding a new section to read as follows:

“SECTION 132.5. Provided that of the special funds appropriation for public lands management (LNR 101), the sum of \$150,000 for fiscal year 1994-1995 shall be used for the master planning of 1,100 acres of east Kapolei lands, Honouliuli; and provided further that the special funds shall be paid from the department of land and natural resources’ special land and development fund.”

(14) By adding a new section to read as follows:

“SECTION 132.6. Provided that of the special funds appropriation for public lands management (LNR 101), the sum of \$1,255,000 for fiscal year 1994-1995 shall be used for plans and land acquisition of land in Waiomao, Palolo, Oahu; provided further that the acquisition shall include parcels identified by tax map key 3-4-29:33, 3-4-29:34, 3-4-29:35; and provided further that the special funds shall be paid from the department of land and natural resources’ special land and development fund.”

(15) By adding a new section to read as follows:

“SECTION 132.7. Provided that of the general obligation bond fund appropriation for the city and county of Honolulu (SUB 201), the sum of \$250,000 for fiscal year 1994-1995 shall be used for plans, land acquisition, and design for drainage improvements for sixteenth and seventeenth avenues, in the vicinity of Ekaha and Keanu streets; and provided further that no funds shall be expended unless matched on a dollar-for-dollar basis with funds from the city and county of Honolulu.”

(16) By adding a new section to read as follows:

“SECTION 132.8. Provided that of the general obligation bond fund appropriation for the city and county of Honolulu (SUB 201), the sum of \$1,200,000 for fiscal year 1994-1995 shall be used for design and construction for Salt Lake boulevard, phase I; and provided further that no funds shall be expended unless matched on a dollar-for-dollar basis with funds from the city and county of Honolulu.”

(17) By adding a new section to read as follows:

“SECTION 132.9. Provided that of the general obligation bond fund appropriation for the city and county of Honolulu (SUB 201), the sum of \$3,300,000 for fiscal year 1994-1995 shall be used for design, construction, and equipment for the Honolulu police department telecommunications system; provided further that the city and county of Honolulu shall coordinate the system with the department of budget and finance; and provided further that the engineering of the system shall be reviewed by the State, and that the State shall be given an opportunity to comment and have input on the final design and bid specifications.”

(18) By adding a new section to read as follows:

“SECTION 132.10. Provided that of the general obligation bond fund appropriation for the county of Hawaii (SUB 301), the sum of \$394,000 for fiscal

year 1994-1995 shall be used for plans, design, construction, and equipment for the Papaikou wastewater treatment system; provided further that C. Brewer shall provide funds for the project through the farmer's home loan program; and provided further that no state funds shall be expended unless matched on a dollar-for-dollar basis with funds from the county of Hawaii."

(19) By adding a new section to read as follows:

"SECTION 132.11. Provided that of the general obligation bond fund appropriation for the county of Kauai (SUB 501), the sum of \$2,000,000 for fiscal year 1994-1995 shall be used for plans, land acquisition, design, and construction for the Koloa/Poipu bypass road; and provided further that the edge of the roadway shall not be closer than 50 feet from any residential property."

(20) By adding a new section to read as follows:

SECTION 141.1. Any law to the contrary notwithstanding, the appropriations under Act 296, Session Laws of Hawaii 1991, section 165, as amended and renumbered by Act 300, Session Laws of Hawaii 1992, section 6, in the amounts indicated or balances thereof are hereby lapsed:

<u>"Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
AGR 122-5	\$ 80,000	C
AGR 131-6	450,000	C
AGR 141-8	50,000	C
AGR 141-9	91,000	C
AGR 141-11B	150,000	C
AGR 141-11C	80,000	W
AGR 192-12	1,845,000	C
LNR 153-13	1,565,000	C
LNR 153-14A	25,000	C
BED 120-17	180,000	C
BED 120-20	47,000	C
TRN 102-2	342,500,000	E
TRN 102-3	157,100,000	E
TRN 102-3A	37,407,000	E
TRN 102-7A	10,427,000	E
TRN 102-7B	47,605,000	E
TRN 102-7C	20,453,000	E
TRN 102-7I	292,010,000	E
TRN 102-7J	30,000,000	E
TRN 102-7K	2,000,000	E
TRN 114-9	14,361,000	E
TRN 501-58D	1,400,000	B
TRN 501-58F	2,500,000	B
TRN 511-62	5,600,000	B
TRN 511-63	15,400,000	B
TRN 531-66	11,200,000	B
TRN 531-70	11,500,000	B
TRN 531-71	17,007,000	B
TRN 531-72	825,000	B

ACT 252

TRN 561-78	2,150,000	B
TRN 561-79	3,345,000	B
TRN 561-80	5,950,000	B
TRN 561-81	1,400,000	B
TRN 561-82	840,000	B
TRN 561-84	800,000	B
TRN 561-85A	7,300,000	B
TRN 561-86	850,000	B
TRN 561-89	8,400,000	B
LNR 402-4	25,000	C
LNR 402-8A	150,000	C
HTH 221-5	4,480	C
HTH 231-8	569,000	C
HTH 420-11	109,387	C
HTH 420-12	99,000	C
HTH 420-13	44,000	C
HTH 501-16	120,000	C
HTH 907-19	1,949,000	C
HTH 907-21	425,000	C
HTH 907-21A	235,000	C
HTH 907-21B	250,000	C
HMS 501-1	2,044,000	C
HMS 220-5	856	C
HMS 229-13	800,000	C
HMS 807-8	40,000	C
BUF 225-15	1,421,064	C
EDN 105-12	135,000	B
EDN 105-15	165,000	B
EDN 105-16	8,135,000	B
EDN 105-18	375,000	B
EDN 105-19	540,000	B
EDN 105-20	1,100,000	B
EDN 105-23	1,200,000	B
EDN 105-27	375,000	B
EDN 105-28	675,000	B
EDN 105-29	1,180,000	B
EDN 105-32	500,000	B
EDN 105-36	8,293,000	B
EDN 105-40	900,000	B
EDN 105-42	3,000,000	B
EDN 105-44	7,281,545	B
EDN 105-45	375,000	B
EDN 105-46	200,000	B
EDN 105-47	1,000,000	B
EDN 105-49	300,000	B
EDN 105-50	375,000	B
EDN 105-51	200,000	B
EDN 105-52	500,000	B
EDN 105-58A	200,000	B
EDN 105-59A	225,000	B
EDN 105-65	300,000	B
EDN 105-67	600,000	B

EDN 105-68	200,000	B
EDN 105-69	375,000	B
EDN 105-72	150,000	B
EDN 105-73	375,000	B
EDN 105-78	94,000	C
EDN 105-79	200,000	C
EDN 105-81	102,000	C
EDN 105-89	162,000	C
EDN 105-91B	70,000	A
EDN 203-94	210,000	C
EDN 203-96	145,000	C
EDN 305-98	20,000	C
UOH 101-116	1,293,000	C
UOH 101-121	750,000	C
UOH 102-124	1,516,000	C
UOH 105-130A	5,000,000	E
UOH 106-134	550,000	C
UOH 106-137A	1,533,000	C
UOH 301-141	784,000	C
CCA 701-2	1,004,000	C
CCA 701-3	176,000	C
LNR 804-8	125,000	C
LNR 804-9	21,000	C
LNR 806-22	385,000	C
TRN 801-36	50,000	D
TRN 801-37	90,000	D
TRN 801-39	16,000	D
PSD 900-9	500,000	C
GOV 103-2	2,600,000	C
AGS 221-15	250,000	C
AGS 221-24	275,000	C
AGS 221-31	200,000	C
AGS 221-31A	2,325,000	W
SUB 201-33	1,401,000	C
SUB 201-34	2,000	C
SUB 301-36	488,000	C
SUB 501-42	2,000,000	C"

(21) By adding a new section to read as follows:

SECTION 141.2. Any law to the contrary notwithstanding, the appropriations under Act 296, Session Laws of Hawaii 1991, section 165, as amended and renumbered by Act 300, Session Laws of Hawaii 1992, section 6, as amended and renumbered by Act 289, Session Laws of Hawaii 1993, section 133, in the amounts indicated or balances thereof are hereby lapsed:

<u>"Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
TRN 501-42	\$ 6,400,000	B
HTH 420-14	1,200,000	C
EDN 105-83	64,800	C"

ACT 252

(22) By adding a new section to read as follows:

SECTION 141.3. Any law to the contrary notwithstanding, the appropriations under Act 296, Session Laws of Hawaii 1991, section 165, as amended and renumbered by Act 300, Session Laws of Hawaii 1992, section 6, as amended and renumbered by Act 289, Session Laws of Hawaii 1993, section 134, in the amounts indicated or balances thereof are hereby lapsed:

<u>"Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
GOV 602-28A	\$ 973,000	C
GOV 602-28B	174,000	C
PSD 403-2	1,387,000	C
PSD 408-7A	500,000	C
PSD 409-7B	430,000	C
SUB 301-39C	120,000	C
SUB 401-41B	1,800,000	C
SUB 401-41C	50,000	C"

(23) By adding a new section to read as follows:

SECTION 141.4. Any law to the contrary notwithstanding, the appropriations under Act 317, Session Laws of Hawaii 1991, section 2, in the amounts indicated or balances thereof are hereby lapsed:

<u>"Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
TRN 501-7	\$ 16,578	C
HTH 242-5	140,000	C
HTH 610-6	125,000	C
HMS 220-2	29,000	C
HMS 220-4	3,000	C
EDN 105-1	38,000	C
EDN 105-2	250,000	C
EDN 105-3	11,000	C
EDN 105-4	10,000	C
EDN 105-5	6,000	C
EDN 105-7	17,000	C
EDN 105-9	18,000	C
EDN 105-11	2,000	C
EDN 105-13	16,000	C
EDN 105-14	12,000	C
EDN 105-16	10,000	C
EDN 105-18	52,000	C
EDN 105-20	9,000	C
EDN 105-21	14,000	C
EDN 105-22	100,000	C
EDN 105-27	63,000	C
EDN 105-32	8,000	C
EDN 105-34	2,000	C

EDN 105-35	7,000	C
EDN 105-37	40,000	C
EDN 105-38	75,000	C
EDN 105-39	110,000	C
EDN 105-43	20,000	C
EDN 105-45	34,000	C
EDN 105-47	30,000	C
EDN 105-49	20,000	C
EDN 105-50	33,000	C
EDN 105-51	7,000	C
EDN 105-52	20,000	C
EDN 105-53	50,000	C
EDN 105-61	100,000	C
EDN 105-64	68,000	C
EDN 105-66	45,000	C
EDN 105-67	17,000	C
EDN 105-68	15,127	C
EDN 105-71	30,000	C
EDN 105-73	10,000	C
EDN 105-75	45,000	C
EDN 105-77	17,000	C
EDN 105-79	210,000	C
EDN 105-81	16,566	C
EDN 105-85	9,000	C
EDN 105-87	30,000	C
EDN 105-96	20,000	C
EDN 105-97	69,000	C
EDN 105-98	35,000	C
EDN 105-100	50,000	C
EDN 106-104	70,000	C
EDN 107-105	50,000	C
EDN 107-106	18,000	C
EDN 107-107	75,000	C
EDN 107-108	8,000	C
EDN 107-109	7,000	C
EDN 203-111	80,000	C
EDN 203-112	25,000	C
EDN 204-114	40,000	C
EDN 204-115	25,000	C
EDN 204-116	14,000	C
EDN 204-118	71,000	C
EDN 204-122	121,000	C
EDN 204-125	100,000	C
EDN 204-126	15,000	C
EDN 305-131	24,000	C
EDN 305-132	20,000	C
EDN 305-135	25,000	C
EDN 306-139	16,000	C
EDN 306-141	17,000	C
EDN 306-142	7,000	C
EDN 306-143	37,000	C
EDN 306-144	5,000	C

ACT 252

EDN 306-145	27,000	C
EDN 307-148	30,000	C
EDN 307-149	30,000	C
EDN 307-151	14,000	C
EDN 307-153	7,000	C
EDN 307-155	53,000	C
EDN 307-158	10,000	C
EDN 307-159	35,000	C
EDN 307-160	25,000	C
EDN 307-161	35,000	C
EDN 307-162	40,000	C
EDN 307-163	65,000	C
EDN 307-165	39,000	C
SUB 201-5	15,000	C
SUB 201-6	100,000	C
SUB 201-7	15,000	C
SUB 201-8	30,000	C
SUB 401-13	100,000	C"

(24) By adding a new section to read as follows:

SECTION 141.5. Any law to the contrary notwithstanding, the appropriations under Act 316, Session Laws of Hawaii 1989, section 222, as amended and renumbered by Act 299, Session Laws of Hawaii 1990, section 6, in the amounts indicated or balances thereof are hereby lapsed:

<u>"Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
BED 120-14	\$ 150,000	C
TRN 301-29	100,000	A
TRN 501-44	78,597	D
TRN 501-53C	218,705	C
TRN 501-60B	9,013	A
TRN 501-60C	28,443	A
TRN 561-76A	1,425,000	C
UOH 706-174	80,000	A
TRN 801-25	37,000	A
AGS 221-22C	75,000	C
AGS 221-22C	1,400,000	A
AGS 221-23B	485,000	C"

(25) By adding a new section to read as follows:

SECTION 141.6. Any law to the contrary notwithstanding, the appropriations under Act 300, Session Laws of Hawaii 1990, section 2, in the amounts indicated or balances thereof are hereby lapsed:

<u>"Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
TRN 501-3	\$ 32,278	A
TRN 531-26	33,200	A"

(26) By adding a new section to read as follows:

SECTION 141.7. Any law to the contrary notwithstanding, the appropriations under Act 314, Session Laws of Hawaii 1989, section 2, in the amount indicated or balance thereof is hereby lapsed:

<u>Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
TRN 531-26	\$ 134,182	D"

(27) By adding a new section to read as follows:

SECTION 141.8. Any law to the contrary notwithstanding, the appropriation under Act 216, Session Laws of Hawaii 1987, section 280, as amended and renumbered by Act 390, Session Laws of Hawaii 1988, section 6, in the amounts indicated or balances thereof are hereby lapsed:

<u>Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
TRN 501-52	\$ 1,231,000	D
TRN 595-86	39,218	D
LNR 806-12	245,000	C
LNR 806-32	35,000	C"

(28) By adding a new section to read as follows:

SECTION 141.9. Any law to the contrary notwithstanding, the appropriations under Act 300, Session Laws of Hawaii 1985, section 222, as amended and renumbered by Act 345, Session Laws of Hawaii 1986, section 6, in the amounts indicated or balances thereof are hereby lapsed:

<u>Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
TRN 501-41	\$ 39,964	D
TRN 501-42B	137,112	D
TRN 561-59	690,263	D
LNR 806-48	180,000	C
DEF 110-9	535,000	C"

(29) By adding a new section to read as follows:

SECTION 141.10. Any law to the contrary notwithstanding, the appropriations under Act 2, Special Session, Session Laws of Hawaii 1988, section 2, in the amounts indicated or balances thereof are hereby lapsed:

<u>Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
TRN 501-6	\$ 7,052	A
TRN 501-20	9,198	A
TRN 531-33	8,612	A"



(30) By adding a new section to read as follows:

SECTION 141.11. Any law to the contrary notwithstanding, the appropriations under Act 217, Session Laws of Hawaii 1987, section 2, as amended and renumbered by Act 316, Session Laws of Hawaii 1989, section 243, in the amounts indicated or balances thereof are hereby lapsed:

<u>"Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
TRN 501-10	\$ 9,852	D
TRN 501-14	14,900	D"

(31) By adding a new section to read as follows:

SECTION 141.12. Any law to the contrary notwithstanding, the appropriation under Act 1, First Special Session, Session Laws of Hawaii 1981, section 92, as amended and renumbered by Act 264, Session Laws of Hawaii 1982, section 5, in the amount indicated or balance thereof is hereby lapsed:

<u>"Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
TRN 531-50	\$ 372,566	D"

SECTION 7. Part VII of Act 289, Session Laws of Hawaii 1993, is amended:

(1) By amending section 155 to read as follows:

"SECTION 155. Unless otherwise provided in this Act the governor is authorized to transfer funds between appropriations within an expending agency for operating purposes; provided that the governor shall submit a report on all such transfers no later than twenty days prior to the convening of the regular session of 1995."

(2) By amending section 156 to read as follows:

"SECTION 156. Except as otherwise provided in this Act, each department or agency is authorized to transfer positions within its respective authorized position ceiling, for the purpose of maximizing the utilization of personnel resources and staff productivity; provided that all such actions shall be with the prior approval of the governor; and provided further that the governor shall submit a report on all such transfers no later than twenty days prior to the convening of the regular session of 1995."

(3) By amending section 160 to read as follows:

"SECTION 160. The governor is hereby authorized to establish two permanent positions during fiscal year 1993-1994 to be allocated by the governor to any of the program areas included in this Act as the governor shall deem proper, provided that the governor shall submit a report to the legislature on the creation of all such positions no later than twenty days prior to the convening of the 1994 regular session."

(4) By amending section 161 to read as follows:

“SECTION 161. The governor is hereby authorized to establish two positions in fiscal year 1993-1994 to be allocated by the governor to any program areas included in this Act and to be funded by savings as determined to be available from any program included in this Act. These positions shall be exempt from the provisions of chapters 76 and 77, Hawaii Revised Statutes; provided further that the governor shall submit a report to the legislature on the creation of all such positions no later than twenty days prior to the convening of the 1994 regular session.”

(5) By amending section 166 to read as follows:

“SECTION 166. All general obligation bond funds used for a public undertaking, improvement, or system, designated by the letter (D), shall have the bond principal and interest reimbursed from the special fund in which the net revenue, or net user tax receipts, or combination of both, of such public undertaking, improvement or system, are deposited or credited. Bonds issued for irrigation and housing projects shall be reimbursed, as provided by section 174-21 and chapter 201E, Hawaii Revised Statutes, respectively.

The governor is authorized to use, at the governor’s discretion, the state highway fund, the harbor special fund, the boating special fund, the airport revenue fund, the special land and development fund, or the economic development special fund to finance the respective highway, harbor, boating, airport, land development, or economic development projects authorized in this Act, where the method of financing is designated to be general obligation bond fund with debt service cost to be paid from the funds; provided that the governor shall submit a report to the legislature no later than ten days after each such change in the method of financing for such projects.”

(6) By amending section 174 to read as follows:

“SECTION 174. The governor is authorized to transfer savings as may be available from the appropriated funds of any programs in this Act to supplement the appropriation for any other program in this Act to cope with the effects of recession, unemployment, natural disasters, and other unforeseen emergencies; provided that the effects of recession, unemployment, natural disaster, or such emergencies create an urgent need to pursue a course of action which is in the best interest of the State; provided further that the legislature shall be notified in writing of such transfer of funding no later than fourteen days after the transfer is made.”

(7) By adding a new section to read as follows:

“SECTION 182.1. Provided that in order to determine the appropriateness of special fund assessment fees for central service costs, as well as the appropriateness of special fund reimbursements for departmental administrative expenses, the auditor shall conduct a study of the special fund assessment requirements of sections 36-27, 36-28, 36-28.5, and 36-29, Hawaii Revised Statutes, and the special fund reimbursement requirements of section 36-30, Hawaii Revised Statutes; provided further that this study shall include but not be limited to:

**ACT 253**

- (1) an evaluation of the rationale behind the assessment fees and reimbursement requirements and whether or not the amounts collected are appropriate;
  - (2) a review of the impact that the assessment fees and reimbursement requirements have on the operations of the special fund;
  - (3) an evaluation as to whether the assessment fees and reimbursement requirements should be expanded, modified, or repealed; and
- provided further that the auditor shall submit a report of its findings and recommendations to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(8) By adding a new section to read as follows:

“SECTION 182.2. Provided that the Governor is authorized to transfer savings between any State program for the purpose of providing vacation termination payments to employees affected by the change in administration.”

SECTION 8. If any portion of this Act or its application to any person, entity, or circumstance is held to be invalid for any reason, then it is hereby declared that the invalidity shall not affect other provisions Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be expended to fulfill the objectives of such appropriation to the extent possible.

SECTION 9. In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the governor is hereby authorized to correct such errors.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring. Nothing in this Act shall affect the validity or continuing effectiveness of any provisions of Act 289, Session Laws of Hawaii 1993, not repealed or modified by this Act.<sup>1</sup>

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

(Approved June 29, 1994.)

**Note**

1. Edited accordingly.

**ACT 253**

H.B. NO. 2780

A Bill for an Act Relating to the Office of Hawaiian Affairs Budget.

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

SECTION 1. This Act shall be known and may be cited as the Office of Hawaiian Affairs Supplemental Appropriations Act of 1994.

SECTION 2. This Act amends Act 276, Session Laws of Hawaii 1993, and other appropriations and authorizations effective during fiscal biennium 1993-1995.

SECTION 3. Act 276, Session Laws of Hawaii 1993, is amended by amending section 3 to read as follows:

“SECTION 3. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized, as the case may be, from the sources of funding specified to the office of Hawaiian affairs for the fiscal biennium beginning July 1, 1993, and ending June 30, 1995. The total general fund expenditures and the number of permanent positions established in each fiscal year of the biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided elsewhere in this Act.

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>Office of Hawaiian Affairs</b>							
1.	OHA100 - POLICY AND ADMINISTRATION			10.00*		[ 10.00*]	
	OPERATING		OHA	434,669A		[ 434,669A]	
			<u>OHA</u>			<u>10.50*</u>	
				10.00*		[ 10.00*]	
			OHA	457,069B		[ 437,069B]	
			<u>OHA</u>			<u>10.50*</u>	
						<u>413,440B</u>	
2.	OHA101 - ADMINISTRATIVE SERVICES			5.50*		5.50*	
	OPERATING		OHA	537,559A		541,987A	
			OHA	540,981B		546,434B	
				5.50*		5.50*	
3.	OHA102 - PUBLIC INFORMATION			2.25*		2.25*	
	OPERATING		OHA	226,657A		[ 224,207 A]	
			<u>OHA</u>			<u>229,207 A</u>	
			OHA	228,362B		[ 226,058 B]	
			<u>OHA</u>			<u>231,058 B</u>	
				2.25*		2.25*	
4.	OHA103 - <u>HEALTH AND HUMAN [RESOURCES] SERVICES</u>			1.25*		1.25*	
	OPERATING		OHA	392,776A		407,891 A	
			OHA	394,763B		409,877B	
				1.25*		1.25*	
5.	OHA104 - PLANNING AND RESEARCH			2.25*		[ 1.75*]	
						<u>3.75*</u>	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
	OPERATING		OHA	237,699 A		[ 137,444 A]	
			<u>OHA</u>			<u>282,748 A</u>	
				2.25*		[ 1.75*]	
						<u>3.75*</u>	
			OHA	253,401 B		[ 153,146 B]	
			<u>OHA</u>			<u>298,448 B</u>	
6.	OHA105 - CULTURE OPERATING		OHA	4,599 A		4,599 A	
				3.00*		3.00*	
			OHA	199,897 B		249,897 B	
7.	OHA106 - GOVERNMENT [AND COMMUNITY] AFFAIRS			1.25*		1.25*	
	OPERATING		OHA	66,102 A		62,699 A	
				1.25*		1.25*	
			OHA	91,298 B		87,896 B	
8.	OHA107 - LAND AND NATURAL RESOURCES			2.50*		2.50*	
	OPERATING		OHA	583,370 A		583,370 A	
				2.50*		2.50*	
			OHA	585,276 B		585,276 B	
9.	OHA108 - ECONOMIC DEVELOPMENT			5.50*		5.50*	
	OPERATING		OHA	512,744 A		504,875 A	
				5.50*		5.50*	
			OHA	526,521 B		518,651 B	
10.	OHA109 - EDUCATION			3.50*		[ 3.50*]	
						<u>1.50*</u>	
	OPERATING		OHA	449,991 A		[ 470,885 A]	
			<u>OHA</u>			<u>350,815 A</u>	
				3.50*		[ 3.50*]	
						<u>1.50*</u>	
			OHA	540,024 B		[ 564,498 B]	
			<u>OHA</u>			<u>444,430 B</u>	
11.	OHA110 - HOUSING			1.75*		1.75*	
	OPERATING		OHA	134,038 A		[ 85,239 A]	
			<u>OHA</u>			<u>58,894 A</u>	
				1.75*		1.75*	
			OHA	135,294 B		[ 86,495 B]	
			<u>OHA</u>			<u>112,840 B</u>	

SECTION 4. Act 276, Session Laws of Hawaii 1993, is amended as follows:

(1) By adding a new section to read as follows:

“SECTION 10A. Provided that of the funds appropriated for public information (OHA 102), the sum of \$5,000 in general funds and \$5,000 in special funds for fiscal year 1994-1995 shall be expended to conduct workshops and mediation sessions on the nine hundred ninety-nine year homestead lease program; provided further that these activities shall be undertaken for the purpose of informing homestead lessees and their families regarding the nature of their leases and their rights and obligations.”

(2) By adding a new section to read as follows:

“SECTION 13A. Provided that of the funds appropriated for planning and research (OHA 104), \$30,000 in general funds and \$30,000 in special funds for fiscal year 1994-1995 shall be expended to conduct independent program evaluations of programs funded by the legislature during fiscal year 1993-1994; provided further that for each evaluation, the report shall include but not be limited to identification of the goals and purpose of each program, effectiveness of each program in meeting the stated goals, and recommendations for program changes, including but not limited to recommendations for deletion or expansion and any other changes; provided further that the report shall detail the costs incurred for each evaluation and that the office of Hawaii affairs shall submit the criteria by which programs are evaluated; provided further that the office of Hawaiian affairs shall submit the reports to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

(3) By amending section 23 to read as follows:

“SECTION 23. Provided that of the funds appropriated for housing (OHA 110), the sum of \$31,677 in general funds and \$31,678 in special funds for the fiscal year 1993-94 and the sum of [~~\$31,677~~] \$5,333 in general funds and [~~\$31,678~~] \$58,022 in special funds for the fiscal year 1994-95 shall be expended to sponsor self-help housing projects.”

(4) By adding a new section to read as follows:

“SECTION 24A. Provided that the office of Hawaiian affairs shall submit as part of their budget justification tables for fiscal biennium 1995-1997 a detailed operating budget of programs, activities, positions, and other operational costs which are being funded solely with proceeds from the public land trust.”

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

SECTION 6. This Act shall take effect upon approval.

(Approved June 29, 1994.)

A Bill for an Act Relating to the Judiciary.

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

SECTION 1. This Act shall be known and may be cited as the Judiciary Supplemental Appropriations Act of 1994.

SECTION 2. This Act amends Act 277, Session Laws of Hawaii 1993.

SECTION 3. Part II, Act 277, Session Laws of Hawaii 1993, is amended by amending section 3 to read as follows:

“SECTION 3. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 1993, and ending June 30, 1995. The total expenditures and the number of permanent positions established in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>The Judicial System</b>							
1.	JUD101	COURTS OF APPEAL					
				71.00*		[ 71.00*]	
	OPERATING		JUD			72.00*	
			JUD	4,395,574 A		[ 4,387,574 A]	
						4,472,865 A	
2.	JUD111	CIRCUIT COURTS					
				501.50*		[ 501.50*]	
	OPERATING		JUD			511.50*	
			JUD	24,065,428 A		[24,065,428 A]	
						24,362,187 A	
3.	JUD112	FAMILY COURTS					
				427.50*		427.50*	
	OPERATING		JUD			[24,775,214 A]	
			JUD	24,665,214 A		25,150,214 A	
4.	JUD121	DISTRICT COURTS					
				521.50*		[ 521.50*]	
	OPERATING		JUD			522.50*	
				17,039,024 A		[17,039,024 A]	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
			<u>JUD</u>			<u>17,105,116 A</u>	
				54.00*		54.00*	
			JUD	1,828,028 B		[ 1,828,028 B]	
			<u>JUD</u>			<u>1,898,028 B</u>	
5.	JUD201 - ADMIN. DIRECTOR SERVICES						
	OPERATING		JUD	252.50*		252.50*	
	INVESTMENT CAPITAL		[JUD]	16,231,964 A		16,044,719 A	
			<u>JUD</u>	[ 1,393,000 C]		[ ]	
				<u>1,093,000 C</u>		<u>2,475,000 C</u>	

SECTION 4. Part III, Act 277, Session Laws of Hawaii 1993, is amended by:

(1) By adding a new section to read as follows:

“SECTION 13A. Provided that of the general funds appropriation for family court (JUD 112), the sum of \$574,450 for fiscal year 1994-1995 shall be used for purchase of service for emergency shelters, and provided further that \$60,000 shall be expended for the independent living program.”

(2) By adding a new section to read as follows:

“SECTION 14A. Provided that of the general funds appropriation for district court (JUD 121), the sum of \$42,800 for fiscal year 1994-1995 shall be expended by the traffic violations bureau to purchase personal computers for the cashiering section; and provided further that a status report shall be submitted that includes the identification of the equipment purchased; provided further that the status report shall be submitted to the legislature no later than twenty days prior to the convening of the 1995 regular session.”

SECTION 5. Part IV, Act 277, Session Laws of Hawaii 1993, is amended by amending section 16 to read as follows:

“SECTION 16. The sum of [\$1,393,000] ~~\$3,568,000~~ appropriated or authorized in Part II of this Act for capital [investment] improvements program projects shall be expended by the judiciary for the projects listed below; provided that several related or similar projects may be combined into a single project, if a combination is advantageous or convenient, for planning, land acquisition, design, construction, and equipment purposes; provided further that the total cost of any projects thus combined shall not exceed the total of the sums specified for the projects separately. The amount indicated after each cost element, and the total funding for each project listed in this Part, is in thousands of dollars.



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1993-94	M O F	FISCAL YEAR 1994-95	M O F
<b>The Judicial System</b>							
JUD201 - ADMIN. DIRECTOR SERVICES							
1.		KOOLAUPOKO DISTRICT COURT, OAHU DESIGN FOR THE KOOLAUPOKO DISTRICT COURT.					
		DESIGN			590		
		TOTAL FUNDING	JUD		590C		C
2.		REMODELING AND UPGRADING JUDICIARY BUILDINGS, STATEWIDE DESIGN, CONSTRUCTION, AND EQUIPMENT FOR REMODELING AND UPGRADING JUDICIARY BUILDINGS, STATEWIDE.					
		DESIGN			40		
		CONSTRUCTION			250		
		EQUIPMENT			13		
		TOTAL FUNDING	JUD		303C		C
[ 3.		HILO JUDICIARY COMPLEX, HAWAII PLANS AND DESIGN FOR A JUDICIARY COMPLEX IN HILO TO ACCOMMODATE THE CIRCUIT, FAMILY, AND DISTRICT COURTS.					
		PLANS			200		
		DESIGN			300		
		TOTAL FUNDING	JUD		500C		C]
3.		<u>HILO JUDICIARY COMPLEX, HAWAII</u> <u>PLANS FOR A JUDICIARY COMPLEX IN HILO TO ACCOMMODATE THE CIRCUIT, FAMILY, AND DISTRICT COURTS.</u>					
		PLANS			200		
		TOTAL FUNDING	JUD		200C		C
3A.		<u>KAUAI JUDICIARY COMPLEX, KAUAI</u> <u>LAND ACQUISITION AND DESIGN FOR A NEW JUDICIARY COMPLEX ON KAUAI.</u>					
		LAND				1,175	
		DESIGN				1,300	
		TOTAL FUNDING	JUD			2,475C"	C

SECTION 6. Any law to the contrary notwithstanding, the appropriations under Act 299, Session Laws of Hawaii 1991, section 13, as amended and renumbered by Act 301, Session Laws of Hawaii 1992, section 5, in the amounts indicated or balances thereof, unallotted, unencumbered, and unexpended, are hereby lapsed:

<u>"Item No.</u>	<u>Amount</u>	<u>(MOF)</u>
JUD 201-1	\$ 150,000	C
JUD 201-2	3,700,000	C
JUD 201-3	930,000	C
JUD 201-4	2,475,000	C"

SECTION 7. Part VI, Act 277, Session Laws of Hawaii 1993, is amended by amending section 19 to read as follows:

"SECTION 19. General obligation bonds may be issued, as provided by law, to yield the amount that may be necessary to finance projects authorized in Part II and listed in Part IV of this Act; provided that the sum total of the general obligation bonds so issued shall not exceed [\$1,393,000.] \$3,568,000."<sup>1</sup>

SECTION 8. Part VII, Act 277, Session Laws of Hawaii 1993, is amended by amending section 26 to read as follows:

"SECTION 26. [Any provision of law to the contrary notwithstanding, the chief justice may supplement any early-phased cost element of a capital improvement project authorized under this Act from funds appropriated for later-phased cost elements of the same project authorized by the legislature in this Act or in a prior year or which may be authorized by the legislature in the future; provided that the total expenditure for all cost elements shall not exceed the total appropriation for that project.] Any law or any provision to the contrary notwithstanding, the chief justice may supplement funds for any cost element for a capital improvements program project authorized in this Act by transferring such sums as may be needed from the funds appropriated for other cost elements of the same project authorized in this Act or in a prior year or which may be authorized by the legislature in the future; provided that the total expenditure for all cost elements shall not exceed the total appropriation for that project."

SECTION 9. If any portion of this Act or its application to any person or circumstances is held invalid for any reason, the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective and intent of such appropriation to the extent possible.

SECTION 10. In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the chief justice is authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

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

ACT 255

SECTION 12. This Act shall take effect upon its approval.

(Approved June 29, 1994.)

Note

1. Period should be underscored.

ACT 255

H.B. NO. 3055

A Bill for an Act Relating to Tuition Waivers for Veterans.

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

SECTION 1. Section 304-14.7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Subject to this section, the board of regents shall waive all tuition fees for the regular academic year for any veteran of the armed forces of the United States of America who:

- (1) Served in the Southeast Asia theater of conflict during the Vietnam era[;] or in a campaign or expedition for which a campaign or expedition medal has been authorized, including Korea, Lebanon, Grenada, Panama, and Southwest Asia (Desert Shield or Desert Storm);
- (2) Was discharged from the armed forces of the United States of America under conditions other than dishonorable;
- (3) Is not eligible, at the time of application for a waiver under this section, for educational benefits under any federal veterans benefit program;
- (4) Is an undergraduate student working towards a degree on any campus of the University of Hawaii; and
- (5) Is a resident of the State of Hawaii, as defined by the board of regents under section 304-4.”

SECTION 2. Section 304-14.7, Hawaii Revised Statutes, is amended by amending subsections (c), (d), and (e) to read as follows:

“(c) No person shall be granted tuition waivers for more than five regular academic years. No tuition shall be waived for courses offered under the programs of the college of continuing education and community services. No tuition waiver shall be granted for any regular academic year which begins after September [1993.] 2003.

(d) To be eligible for a tuition waiver, an applicant shall obtain certification from the United States Department of Veterans [Administration] Affairs that the veteran meets the qualifications under subsection (a)(1), (2), and (3) and present the certification to the university at the time of application for the waiver.

(e) The board of regents may request the United States Department of Veterans [Administration] Affairs to submit reports periodically on the impact and benefit of the tuition waivers granted under this section.”

SECTION 3. Section 304-14.7, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) This section is repealed on June 30, [1994.] 2004.”

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

SECTION 5. This Act shall take effect on June 29, 1994.

(Approved June 29, 1994.)

## ACT 256

S.B. NO. 2378

A Bill for an Act Relating to State Bonds.

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

SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, section 13, of the State Constitution which states: “Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance,” the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the State is set forth in Article VII, section 13, of the State Constitution, which states in part: “General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance.” Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including “reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year and bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor but only to the extent the principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under said Article VII, section 13.”
- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1992-1993 and estimated for each fiscal year from 1993-1994 to 1996-1997, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1990-1991	\$2,654,706,036	
1991-1992	2,672,238,596	
1992-1993	2,801,180,523	
1993-1994	2,937,602,217	501,234,385
1994-1995	3,003,013,918	518,679,649
1995-1996	3,151,428,408	539,077,461
1996-1997	(Not Applicable)	560,676,080

For fiscal years 1993-1994, 1994-1995, 1995-1996, and 1996-1997, respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1990-1991, 1991-1992, and 1992-1993 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1993, dated November 30, 1993. The net general fund revenues for fiscal years 1993-1994 to 1995-1996 are based on general fund revenue estimates made as of March 14, 1994, by the council on revenues, the body assigned by Article VII, section 7, of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by Article VII, section 13 of the State Constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of March 1, 1994 is as follows for fiscal year 1994-1995 to fiscal year 2000-2001:

Fiscal Year	Principal and Interest
1994-1995	\$323,002,875
1995-1996	367,181,168
1996-1997	361,748,315
1997-1998	333,619,403
1998-1999	306,409,679
1999-2000	291,629,762
2000-2001	243,119,480

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2001-2002 to fiscal year 2013-2014 when the final installment of \$14,214,769 shall be due and payable. (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under

- which the State may incur a contingent liability as a guarantor is \$222,600,000, part of which is excludable in determining the power to the State to issue general obligation bonds, pursuant to Article VII, section 13 of the State Constitution.
- (4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds. (A) As calculated from the state comptroller's bond fund report as of February 28, 1994, adjusted for (1) appropriations to be funded by general obligation bonds as provided in Act 289, Session Laws of Hawaii 1993 (General Appropriations Act of 1993), to be expended in the fiscal year 1994-1995, (2) appropriations to be funded by general obligation bonds as provided in Act 364, Session Laws of Hawaii 1993 (Relating to Education), to be expended in the fiscal year 1994-1995, (3) encumbrance lapses of \$6,055,073, (4) lapses as provided in House Bill No. 2500, H.D. 1, S.D. 1, C.D. 1 (the Supplemental Appropriations Act of 1994),<sup>1</sup> amounting to \$52,395,217, (5) lapses as provided in House Bill No. 2990, H.D. 2, S.D. 1, C.D. 1 (the Judiciary Supplemental Appropriations Act of 1994),<sup>2</sup> amounting to \$7,555,000, and (6) the change in the means of financing from general obligation bond fund to general fund provided in House Bill No. 2500, H.D. 1, S.D. 1, C.D. 1 (the Supplemental Appropriations Act of 1994),<sup>1</sup> amounting to \$16,231,000, the total amount of authorized but unissued general obligation bonds is \$1,059,869,150. The amount of general obligation bonds authorized in House Bill No. 2500, H.D. 1, S.D. 1, C.D. 1 (the Supplemental Appropriations Act of 1994),<sup>1</sup> House Bill No. 2990, H.D. 2, S.D. 1, C.D. 1 (the Judiciary Supplemental Appropriations Act of 1994),<sup>2</sup> and Senate Bill No. 1628, S.D. 2, H.D. 1, C.D. 1 (Making an Appropriation for the Dredging of Maunalua Bay),<sup>3</sup> is \$90,130,000. The total amount of general obligation bonds previously authorized and unissued, as adjusted, and the general obligation bonds authorized in House Bill No. 2500, H.D. 1, S.D. 1, C.D. 1 (the Supplemental Appropriations Act of 1994),<sup>1</sup> House Bill No. 2990, H.D. 2, S.D. 1, C.D. 1 (the Judiciary Supplemental Appropriations Act of 1994),<sup>2</sup> and Senate Bill No. 1628, S.D. 2, H.D. 1, C.D. 1 (Making an Appropriation for the Dredging Of Maunalua Bay),<sup>3</sup> is \$1,149,999,150. (B) As reported by the department of budget and finance, the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$222,600,000, part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to Article VII, section 13, of the State Constitution.
- (5) Proposed general obligation bond issuance. As reported herein for fiscal years 1993-1994, 1994-1995, 1995-1996, and 1996-1997, the State proposes to issue \$337,500,000 during the remainder of fiscal year 1993-1994, \$100,000,000 semiannually in fiscal year 1994-1995, \$200,000,000 in the first half of fiscal year 1995-1996, \$212,500,000 in the second half of fiscal year 1995-1996 and \$100,000,000 semiannually in fiscal year 1996-1997. It is the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal, and interest payments commencing six months from the date of issuance and being paid

semiannually thereafter. It is assumed this practice will continue to be applied to bonds which are proposed to be issued.

- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the fiscal years 1993-1994 to 1995-1996 is \$950,000,000. An additional \$200,000,000 is proposed to be issued in fiscal year 1996-1997. The total amount of \$950,000,000 which is proposed to be issued through fiscal year 1995-1996 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is \$1,149,999,150, as reported in paragraph (4), except for \$199,999,150. It is assumed that the appropriations to which an additional \$199,999,150 in bond issuance needs to be applied will have been encumbered as of June 30, 1996. The \$200,000,000 which is proposed to be issued in fiscal year 1996-1997 will be sufficient to meet the requirements of the June 30, 1996, encumbrances in the amount of \$199,999,150. The amount of assumed encumbrances as of June 30, 1996 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1996, and the amount of June 30, 1996 encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1996-1997, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.
- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds.
- (A) General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which is excludable from the amount of each proposed bond issued because:
- (i) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
  - (ii) Not all reimbursable general obligation bonds may qualify for exclusion.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the department of budget and finance, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 8.3 percent for the ten years from fiscal year 1994-1995 to fiscal year 2003-2004. For the purpose of this declaration, the assumption is made that five percent of each bond issue will be excludable from the debt limit, an assumption which

the legislature finds to be reasonable and conservative. (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of this paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under Article VII, section 13, of the State Constitution for the fiscal years 1993-1994, 1994-1995, 1995-1996 and 1996-1997 are as follows:

Fiscal year	Total amount of General Obligation Bonds not otherwise excluded by Article VII, section 13 of the State Constitution
1993-1994	\$2,992,476,241
1994-1995	2,998,643,721
1995-1996	3,139,740,268
1996-1997	3,064,758,296

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven percent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided by, can be excluded in determining the power of the State to issue general obligation bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to a actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to Article VII, section 13, of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on such assumptions and on the determination in paragraph (8), the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which must be included in determining the power of the State to issue general obligation bonds is \$9,176,676.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that the bonds identified in paragraph (5) will be issued at an interest rate of 6.0 percent, it can be determined from the following schedule that the



bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such issuance:

Time of Issuance and Amount to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties
Remainder FY 93-94 \$320,625,000	\$501,234,385	\$407,974,991 (1996-1997)
1st half FY 94-95 \$95,000,000	518,679,649	413,674,991 (1996-1997)
2nd half FY 94-95 \$95,000,000	518,679,649	419,374,991 (1996-1997)
1st half FY 95-96 \$190,000,000	539,077,461	430,774,991 (1996-1997)
2nd half FY 95-96 \$201,875,000	539,077,461	442,887,491 (1996-1997)
1st half FY 96-97 \$95,000,000	560,676,080	429,795,369 (1997-1998)
2nd half FY 96-97 \$95,000,000	560,676,080	435,495,369 (1997-1998)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act and for all bonds authorized and unissued and calculated for all bonds issued and outstanding and guaranties, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds that the bases for the declaration of findings set forth in this Act are reasonable. The following assumptions set forth in this Act shall not be deemed to be binding:

- (1) The principal amount of general obligation bonds which will be issued;
- (2) The amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable; and
- (3) The assumed maturity structure.

It is the understanding of the legislature that such matters must remain subject to substantial flexibility.

**SECTION 3.** Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in House Bill No. 2500, H.D. 1, S.D. 1, C.D. 1 (the Supplemental Appropriations Act of 1994),<sup>1</sup> House Bill No. 2990, H.D. 2, S.D. 1, C.D. 1 (the Judiciary Supplemental Appropriations Act of 1994),<sup>2</sup> and Senate Bill No. 1628, S.D. 2, H.D. 1, C.D. 1 (Making an Appropriation for the Dredging of Maunalua Bay),<sup>3</sup> passed by this regular session of 1994, and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$90,130,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-16, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

**SECTION 4.** The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

**SECTION 5.** In printing this Act, the revisor of statutes shall substitute in section 1 and section 3 the corresponding act numbers for bills identified therein.

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

(Approved June 30, 1994.)

#### Notes

1. Act 252.
2. Act 254.
3. Act 231.

## ACT 257

S.B. NO. 2889

A Bill for an Act Relating to the State Military Forces.

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

**SECTION 1.** To provide for, strengthen, and expedite the state military forces and to enable the State of Hawaii to more successfully fulfill its duty to defend this nation and State, the purpose of this Act is to suspend enforcement of civil liabilities, in certain cases, of persons in the state military forces in order to enable those persons to devote their entire energy to the defense needs of this State in times of need. This Act makes provisions for the temporary suspension of legal proceedings and transactions that may prejudice the civil rights of persons in state military service.

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

**“CHAPTER  
CIVIL RELIEF FOR STATE MILITARY FORCES**

**PART I. GENERAL PROVISIONS**

§ **-1 Definitions.** As used in this chapter, unless the context indicates otherwise:

“Active service” or “active duty” includes but is not limited to the period during which the persons in military service are absent from duty on account of sickness, wounds, leave, or other lawful cause.

“Court” includes any court of competent jurisdiction of the State of Hawaii, whether or not a court of record.

“Military service” means service on state active duty in any of the state military forces.

“Period of military service” means the period beginning on the date on which the person enters state active duty and ending on the date of the person’s release from state active duty or death while on state active duty.

“Person”, when used with reference to the holder of any right alleged to exist against a person in military service or against a person secondarily liable under such right, includes individuals, partnerships, corporations, and any other forms of business association.

“Person in the military service” and “persons in the military service of the State” include all members of any of the state military forces, as defined in section 124A-1.

“State active duty” includes any period during which a person in the military service of the State is ordered to state active duty by the adjutant general or the governor.

§ **-2 Territorial application; jurisdiction of courts; form of procedure.** (a) This chapter shall apply to the United States, the states and territories, the District of Columbia, and all territories subject to the jurisdiction of the United States, and to proceedings commenced in any court therein, and shall be enforced through the usual forms of procedure in such courts or under their rules.

(b) When under this chapter any application is required to be made to a court in which no proceeding has already been commenced as to the matter, that application may be made to any court.

§ **-3 Protection of persons secondarily liable.** (a) Whenever:

- (1) The enforcement of any obligation or liability;
- (2) The prosecution of any suit or proceeding;
- (3) The entry or enforcement of any order, writ, judgment, or decree; or
- (4) The performance of any other act;

may be stayed, postponed, or suspended, the stay, postponement, or suspension may likewise be granted in the discretion of the court to sureties, guarantors, endorsers, accommodation makers, and others, whether primarily or secondarily subject to the obligation or liability that is stayed, postponed, or suspended.

(b) When a judgment or decree is vacated or set aside in whole or in part as provided in this chapter, the court in its discretion may likewise set aside and vacate it as to any surety, guarantor, endorser, accommodation maker, or other person, whether primarily or secondarily liable upon the contract or liability for the enforcement of which the judgment or decree was entered.

(c) Whenever by reason of the military service of a principal, the sureties

of a criminal bail bond are prevented from enforcing the attendance of their principal and performing their obligation, the court shall not enforce the provisions of the bond during the military service of that principal. The court, in accordance with principles of equity and justice, may discharge those sureties and exonerate the bail either during or after such service.

(d) Nothing in this chapter shall prevent a waiver in writing of the benefits afforded by subsections (a) and (b) by any surety, guarantor, endorser, accommodation maker, or other person whether primarily or secondarily liable upon the obligation or liability, except that no such waiver shall be valid unless it is executed as an instrument separate from the obligation or liability in respect of which it applies. No such waiver shall be valid after the beginning of the period of military service if executed by:

- (1) An individual who subsequent to the execution of that waiver becomes a person in military service; or
- (2) A dependent of the individual.

§ -4 **Notice of benefits to persons in and persons entering military service.** The adjutant general shall ensure the giving of notice of the benefits accorded by this chapter to persons entering the state military forces.

§ -5 **Extension of benefits to persons ordered to report for state military service.** Any person who is ordered to report for state military service shall be entitled to the relief and benefits during:

- (1) The period of actual military service; and
- (2) The period beginning on the date of receipt of the order and ending on the date upon which the member reports for military service, or the date on which the order is revoked, whichever is earlier.

§ -6 **Effect on rights, remedies, etc., pursuant to written agreements entered after commencement of military service.** Nothing in this chapter shall prevent:

- (1) The modification, termination, or cancellation of any contract, lease, or bailment or any obligation secured by mortgage, trust deed, lien, or other security in the nature of a mortgage; or
- (2) The repossession, retention, foreclosure, sale, forfeiture, or taking possession of property that is security for any obligation or which has been purchased or received under a contract, lease, or bailment; pursuant to a written agreement of the parties thereto (including the person in military service, whether or not the person is a party to the obligation), or their assignees, executed during or after the period of military service of that person.

§ -7 **Exercise of rights not to affect lenders, credit, or insurers.** Application by a person in military service for, or receipt by a person in military service of, a stay, postponement, or suspension pursuant to this chapter in the payment of any tax, fine, penalty, insurance premium, or other civil obligation or liability of that person shall not by itself provide the basis for any of the following:

- (1) A determination by any lender or other person that the person in military service is unable to pay the civil obligation or liability in accordance with its terms;
- (2) With respect to a credit transaction between a creditor and the person in military service:

- (A) A denial or revocation of credit by the creditor;
- (B) A change by the creditor in the terms of an existing credit arrangement; or
- (C) A refusal by the creditor to grant credit to such person in substantially the amount or on substantially the terms requested;
- (3) An adverse report on the creditworthiness of the person in military service by or to any person or entity engaged in the practice of assembling or evaluating consumer credit information; or
- (4) A refusal by an insurer to insure the person.

**PART II. GENERAL RELIEF**

**§ -11 Default judgments; affidavits; bonds; attorneys for persons in service.** (a) In a default of any appearance by the defendant in any action or proceeding commenced in any court, no judgment shall be entered without first securing a court order directing that entry, and no order shall be made if the defendant is in the military service until after the court has appointed an attorney to represent the defendant. The court, on application, shall make such an appointment. If it appears that the defendant is in the military service, the court may require the plaintiff to file a bond approved by the court before judgment is entered. The bond shall be to indemnify the defendant in military service against any loss or damage that the defendant may suffer from any judgment should the judgment be thereafter set aside in whole or in part. The court may make other and further orders or enter a judgment that in its opinion may be necessary to protect the rights of the defendant under this chapter.

(b) Any person who makes or uses any affidavit, statement, declaration, verification, or certificate claiming that the defendant is not in military service, knowing it to be false, shall be punished as provided in chapter 710, part V.

(c) In any action or proceeding in which a person in military service is a party and does not personally appear therein or is not represented by an authorized attorney, the court may appoint an attorney to represent the person. In that case, a bond may be required and an order made to protect the rights of the person. But no attorney appointed under this chapter to protect a person in military service shall have power to waive any right of that person or bind that person.

(d) If any judgment shall be rendered in any action or proceeding governed by this section against any person in military service during the period of that service or within sixty days thereafter, and it appears that the person in military service was prejudiced by reason of the person's military service in making the person's defense thereto, then the judgment, upon application made by the person or the person's legal representative, not later than sixty days after the termination of the military service, may be opened by the court rendering the same and the defendant or the defendant's legal representative allowed to defend; provided it is made to appear that the defendant has a meritorious or legal defense to the action or some part thereof.

(e) Vacating, setting aside, or reversing any judgment because of any of the provisions of this chapter shall not impair any right or title acquired by any bona fide purchaser for value under the judgment.

**§ -12 Stay of proceedings where military service affects conduct thereof.** In any action or proceeding in any court in which a person in military service is involved, either as plaintiff or defendant, during the period of that service or within sixty days thereafter, the court in its discretion, on application to it

by the person or a person on such person's behalf, shall stay the action or proceeding at any stage as provided in this chapter. No stay shall issue if, in the opinion of the court, the ability of the plaintiff to prosecute the action or the defendant to conduct the defense is not materially affected by reason of the person's military service.

§ **-13 Fines and penalties on contracts.** When an action for compliance with the terms of any contract is stayed pursuant to this chapter, no fine or penalty shall accrue by reason of failure to comply with the terms of the contract during the period of the stay. In any case where a person fails to perform any obligation and a fine or penalty for the nonperformance is incurred, a court may relieve the enforcement of the fine or penalty on such terms as may be just if the person was in the military service when the penalty was incurred and that by reason of that service the ability of the person to pay or perform was thereby materially impaired.

§ **-14 Restrictions.**<sup>1</sup> In any action or proceeding commenced in any court, if an insurance policy was assigned prior to the person's period of military service to secure the payment of any obligation of that person, no assignee of the policy (except the insurer in connection with a policy loan), during the period of military service of the insured or within sixty days thereafter, except upon the consent in writing of the insured made during the period or when the premiums thereon are due and unpaid or upon the death of the insured, shall exercise any right or option by virtue of the assignment unless upon leave of court granted upon an application made by the assignee. The court may refuse to grant leave unless the court finds that the ability of the obligor to comply with the terms of the obligation is not materially affected by reason of the obligor's military service. For the purpose of this subsection, premiums which are guaranteed under part IV shall not be deemed to be due and unpaid.

(b) No person shall exercise any right to foreclose or enforce any lien for storage of household goods, furniture, or personal effects of a person in military service during the person's period of military service and for sixty days thereafter except upon an order previously granted by a court upon application and a return made and approved by the court. The court, after a hearing on an application by the person in military service or some person on behalf of the person in military service, unless in the opinion of the court the ability of the defendant to pay the storage charges due is not materially affected by reason of the person's military service, may find against a person in military service.

(c) Before or during the period of that service, or within sixty days thereafter, the court, on its own motion or on application to it by such person or a person on such person's behalf, unless in the opinion of the court the ability of the defendant to comply with the judgment or order entered or sought is not materially affected by reason of the defendant's service shall:

- (1) Stay the execution of any judgment or order entered against this person, as provided in this chapter; or
- (2) Vacate or stay any attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment as provided in this chapter.

§ **-15 Duration and term of stays; codefendants not in service.** A stay of any action, proceeding, attachment, or execution, ordered by any court under this chapter, shall be for the period of military service and sixty days thereafter or any part of that period, and may be subject to such terms as may be just,

including payment in installments of specified amounts and at such times as the court may fix. Where the person in military service is a codefendant with others, the plaintiff may proceed against the others by leave of the court.

§ -16 **Statutes of limitations as affected by period of service.** The period of military service shall not be included in computing any period for the bringing of any action or proceeding in any court, or before a state or county agency by or against any person in military service or by or against the person's heirs, personal representatives, administrators, or assigns, whether the cause of action or right or privilege to institute that action or proceeding accrued prior to or during the period of the military person's service. No part of the period of military service that occurs after the effective date of this chapter shall be included in computing any period now or hereafter provided by any law for the redemption of real property sold or forfeited to enforce any obligation, tax, or assessment.

§ -17 **Maximum rate of interest.** No obligation or liability bearing interest at a rate in excess of six per cent a year incurred by a person in military service before that person's entry into that service, during any part of the period of military service, shall bear interest at a rate in excess of six per cent a year unless, in the opinion of the court, upon application thereto by the obligee, the ability of the person in military service to pay interest upon the obligation or liability at a rate in excess of six per cent per year is not materially affected by reason of that service, in which case the court may make such order as it deems just.

As used in this section the term "interest" includes service charges, renewal charges, fees, or other charges, except bona fide insurance, as to the obligation or liability.

§ -18 **Limitation prescribed by state tax laws as affected by period of service.** Section -16 shall not apply to any period of limitation in state tax laws set forth in title 14.

### **PART III. RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENTS, LEASES**

§ -21 **Eviction or distress during military service; stay; penalty for noncompliance; allotment of pay for payment.** (a) No eviction or distress shall be made during the period of military service for any premises occupied chiefly for dwelling purposes by the spouse or other dependents of a person in military service, except upon leave of court granted upon application or granted in an action or proceeding on the right of possession.

(b) On any such application or in any such action the court may, in its discretion and on its own motion, and shall, upon application, unless in the opinion of the court the ability of the tenant to pay the agreed rent is not materially affected by reason of such military service, stay the proceedings for not longer than three months, or it may make such other order as may be just. Where the stay is granted or other order is made by the court, the owner of the premises shall be entitled, upon application therefor, to relief in respect of the premises similar to that granted persons in military service in sections -22 and -23 to such extent and for such period as may appear to the court to be just.

(c) Any person who shall knowingly take part in any eviction or distress otherwise than as provided in subsection (a), or attempts so to do, shall be guilty of a misdemeanor.

(d) The adjutant general is empowered, subject to rules adopted under chapter 91, to order an allotment of the pay of a person in military service in reasonable proportion to discharge the rent of premises occupied for dwelling purposes by the spouse or other dependents of the person.

§ -22 **Installment contracts for purchase of property.** (a) No person who has received, or whose assignor has received, under a contract for the purchase of real or personal property, or of lease or bailment with a view to purchase of that property, a deposit or installment of the purchase price, or a deposit or installment under the contract, lease, or bailment, from a person or from the assignor of a person who, after the date of payment of such deposit or installment, has entered military service, shall exercise any right or option under the contract to rescind or terminate the contract or resume possession of the property for nonpayment of any installment due or for any other breach of the terms occurring prior to or during the period of such military service, except by action in a court of competent jurisdiction.

(b) Any person who knowingly resumes possession of property that is the subject of this section otherwise than as provided in subsection (a) or in section -6 or attempts so to do, shall be guilty of a misdemeanor.

(c) Upon the hearing of that action the court may order the repayment of prior installments or deposits or any part thereof, as a condition of terminating the contract and resuming possession of the property, or on its own motion or on application to it by the person in military service or a person on behalf of such person, shall order a stay of proceedings as provided in this chapter unless, in the opinion of the court, the ability of the defendant to comply with the terms of the contract is not materially affected by reason of that service; or it may make such other disposition of the case as may be equitable to preserve the interests of all parties.

§ -23 **Mortgages, trust deeds, and other securities.** (a) This section applies solely to obligations secured by mortgage, trust deed, or other security in the nature of a mortgage upon real or personal property owned by a person in military service before or at the commencement of the period of the military service and still owned by the person.

(b) In any proceeding commenced in any court during the period of military service to enforce that obligation arising out of nonpayment of any sum due or out of any other breach of the terms occurring prior to or during the period of the person's military service, the court may, after hearing and on its own motion, or shall, on application to it by the person in military service or some person on behalf of the person in military service, unless in the opinion of the court the ability of the defendant to comply with the terms of the obligation is not materially affected by reason of the defendant's military service:

- (1) Stay the proceedings as provided in this chapter; or
- (2) Make such other disposition of the case as may be equitable to conserve the interests of all parties.

(c) No sale, foreclosure, or seizure of property for nonpayment of any sum due under any such obligation, or for any other breach of the terms thereof, whether under a power of sale, under a judgment entered upon warrant of attorney to confess judgment contained therein, shall be valid if made during the period of military service or within sixty days thereafter, except pursuant to an agreement as provided in section -6, unless upon an order previously granted by the court and a return thereto made and approved by the court.



Any person who knowingly makes, attempts, or causes to be made any such sale, foreclosure, or seizure of property, shall be guilty of a misdemeanor.

§ -24 **Settlement of cases involving stayed proceedings to foreclose mortgage on, resume possession of, or terminate contract for purchase of, personal property.** Where a proceeding to foreclose a mortgage upon or to resume possession of personal property, or to rescind or terminate a contract for its purchase, has been stayed as provided in this chapter, the court, unless in its opinion an undue hardship would result to the dependents of the person in the military service, may appoint three disinterested parties to appraise the property and, based upon the report of the appraisers, order that sum, if any, as may be just, paid to the person in military service or the person's dependent, as the case may be, as a condition of foreclosing the mortgage, resuming possession of the property, or rescinding or terminating the contract.

§ -25 **Termination of leases by lessees.** (a) This section applies to any lease of premises occupied for a dwelling, or for professional, business, agricultural, or similar purposes in any case in which:

- (1) The lease was executed by or on the behalf of a person who, after the execution of the lease, entered military service; and
- (2) The leased premises have been occupied for one or more of those purposes by the person or by the person and the person's dependents.

(b) Any lease described in subsection (a) may be terminated by notice in writing delivered to the lessor or the lessor's grantee or to one of their agents by the lessee at any time following the date of the beginning of the lessor's or the lessor's grantee's period of military service. Delivery of the notice may be made by mailing it. Termination of any such lease providing for monthly payment of rent shall not be effective until thirty days after the date on which the next rental payment is due and payable following the date of delivery or mailing of the notice. In the case of all other leases, termination shall be effected on the last day of the month following the month in which the notice is delivered or mailed and in such case any unpaid rental for a period preceding termination shall be computed pro rata and any rental paid in advance for a period succeeding termination shall be refunded by the lessor or the lessor's assignee. Upon application by the lessor to the appropriate court prior to the termination period provided for in the notice, any relief granted in this subsection shall be subject to such modifications or restrictions the court may find in the interests of justice and equity.

(c) Any person who knowingly seizes, holds, or retains the personal effects, clothing, furniture, or other property of any person who has lawfully terminated a lease covered by this section, or in any manner interferes with the removal of such property from the premises covered by such lease, for the purpose of subjecting or attempting to subject any such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, shall be guilty of a misdemeanor.

§ -26 **Life insurance policies; penalties.** (a) Where any life insurance policy on the life of a person in military service is the subject of an action or proceeding under this chapter, the court may:

- (1) Stay the proceedings as provided in this chapter; or
- (2) Make such other disposition of the case as may be equitable to preserve the interest of all parties.

This subsection shall not be construed in any way as affecting or as limiting the scope of section -23.

(b) Any person who knowingly acts in violation of this section, or attempts to do so, shall be guilty of a misdemeanor.

§ -27 **Extension of benefits to dependents.** Dependents of a person in military service shall be entitled to the benefits accorded to persons in military service under this part upon application to a court therefor, unless in the opinion of the court the ability of these dependents to comply with the terms of the obligation, contract, lease, or bailment has not been materially impaired by reason of the military service of the person upon whom the applicants are dependent.

#### PART IV. INSURANCE

§ -31 **Definitions.** As used in this part:

“Insured” includes any person in the state military forces, whose life is insured under and who is the owner and holder and has an interest in a policy.

“Insurer” includes any firm, corporation, partnership, or association chartered or authorized to engage in the insurance business to issue a policy as defined by the laws of a state or of the United States.

“Policy” includes any contract of life insurance or policy on a life, endowment, or term plan, including any benefit in the nature of life insurance arising out of membership in any fraternal or beneficial association, that does not provide for the payments of any sum less than the face value thereof or for the payment of an additional amount as premiums if the insured engages in the military service of the United States or which does not contain any limitations or restrictions upon coverage relating to engagement in or pursuit of certain types of activities which a person might be required to engage in by virtue of the person’s being in that military service, and:

- (1) Which is in force on a premium-paying basis at the time of application for benefits hereunder; and
- (2) Which was made and a premium paid thereon not less than one hundred eighty days before the date insured entered into the military service.

This definition does not apply to policies or contracts of life insurance issued under the War Risk Insurance Act, as amended, the World War Veterans Act, as amended, or the National Service Life Insurance Act of 1940, as amended.

“Premium” includes the amount specified in the policy as the stipend to be paid by the insured at regular intervals during the period therein stated.

§ -32 **Persons entitled to benefits; applications; amount of insurance protected.** The benefits and privileges of this part shall apply to any insured when the insured, or a person designated by the insured, makes written application for protection under this part, unless the insurance commissioner in passing on the application finds that the policy is not entitled to protection under this part. The adjutant general shall give notice to the state military forces of the provisions of this part, and shall include in the notice an explanation of the provisions for the information of those desiring to make application for benefits. The original of the application shall be sent by the insured to the insurer, and a copy to the insurance commissioner. The total amount of insurance on the life of one insured under policies covered by this part shall not exceed \$10,000. If an insured applies for protection of policies on the insured’s life totaling insurance in excess of \$10,000, the insurance commissioner may have the amount of insurance divided into two

or more policies so that the protection of this part may be extended to include policies for a total amount of insurance not to exceed \$10,000, and a policy which affords the best security to the government shall be given preference.

§ -33 **Form of application; reports to insurance commissioner by insurer; policy deemed modified upon application for protection.** Any writing signed by the insured and identifying the policy and the insurer, and agreeing that the insured's rights under the policy are subject to and modified by this part, shall be sufficient as an application for the benefits of this part, but the insurance commissioner may require the insured and insurer to execute other appropriate forms. Upon receipt of the application of the insured, the insurer shall furnish such report to the insurance commissioner concerning the policy as shall be prescribed by rules adopted under chapter 91. When an insured has applied for protection under this part, the policy is deemed to have been modified to conform to the provisions of this part.

§ -34 **Determination of policies entitled to protection; notice to parties; lapse of policies for nonpayment of premiums, etc.** The insurance commissioner shall determine whether the policy is entitled to protection under this part and shall notify the insured and the insurer of that determination. Any policy found by the insurance commissioner to be entitled to protection under this part, subsequent to date of application and during the period of state military service of the insured and for sixty days after the expiration of that service, shall not lapse or otherwise terminate or be forfeited for the nonpayment of a premium becoming due and payable, or the nonpayment of any indebtedness or interest.

§ -35 **Rights and privileges of insured during period of protection.** No dividend or other monetary benefit under a policy shall be paid to an insured or used to purchase dividend additions while a policy is covered by this part except with the approval of the insurance commissioner. Without this approval, those dividends or benefits shall be added to the value of the policy to be used as a credit when final settlement is made with the insurer. No cash value, loan value, withdrawal of dividend accumulation, unearned premium, or other value of similar character shall be available to the insured while the policy is covered under this part except upon approval by the insurance commissioner. The insured's right to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by this part.

§ -36 **Deduction of unpaid premiums upon settlement of policies maturing during protection.** In the event of maturity of a policy as a death claim or otherwise before the expiration of the period of protection under this part, the insurer in making settlement shall deduct from the amount of insurance the premiums guaranteed under this part, together with interest thereon at the rate fixed in the policy for policy loans. If no rate of interest is specifically fixed in the policy, the rate shall be the rate fixed for policy loans in other policies issued by the insurer at the time the policy brought under this chapter was issued. The amount deducted by reason of the protection afforded by this part shall be reported by the insurer to the insurance commissioner.

§ -37 **Guarantee of premiums and interest by State; settlement of amounts due upon expiration of protection; subrogation of state crediting debt repayments.** Payment of premiums and interest thereon at the rate specified

in section -36 becoming due on a policy while protected under this part is guaranteed by the State, and if the amount so guaranteed is not paid to the insurer prior to the expiration of the period of insurance protection under this part, the amount then due shall be treated by the insurer as a policy loan. If at the expiration of that period the cash surrender value is less than the amount then due, the policy shall then cease and the State shall pay the insurer the difference between the amount and the cash surrender value. The amount paid by the State to an insurer on account of applications approved under this part shall become a debt due to the State by the insured on whose account payment was made and, notwithstanding any other law, the amount may be collected either by deduction from any amount due the insured by the State or as otherwise authorized by law. Any moneys received as repayment of debt incurred under this part shall be credited to the appropriation for the payment of claims under this part.

§ -38 **Rules; finality of determinations.** The insurance commissioner shall adopt rules under chapter 91 to implement this part. The findings of fact and conclusions of law made by the insurance commissioner in administering this part shall be final, and shall not be subject to review by any other official or agency of the government.

## PART V. TAXES AND PUBLIC LANDS

§ -41 **Taxes respecting personalty, money, credits, or realty; sale of property to enforce collection; redemption of property sold; penalty for nonpayment; notice of rights to beneficiaries of section.** (a) This section applies to any general or special unpaid taxes or assessments, that fall due prior to or during the period of state military service, on personal property, money, or credits, or real property owned and occupied for dwelling, professional, business, or agricultural purposes by persons in state military service or the person's dependents at the commencement of the period of military service and still so occupied by the person's dependents or employees. This section does not apply to taxes on income.

(b) No sale of any property in subsection (a) shall be made to enforce the collection of any state or county tax or assessment, and no proceeding or action for that purpose shall commence, except upon leave of court granted upon application made by the state department of taxation or appropriate county agency. The court, unless in its opinion the ability of the person in military service to pay the taxes or assessments is not materially affected by reason of state military service, may stay the proceedings or the sale for a period of not more than sixty days after the termination of the period of military service of the person.

(c) When by law the property may be sold or forfeited to or enforce the collection of the tax or assessment, the person in state military service shall have the right to redeem or commence an action to redeem the property, at any time not later than sixty days after the termination of state military service, but in no case later than sixty days after the date if this chapter is repealed; provided this shall not shorten any period provided by any other state or county law providing for that redemption.

(d) Whenever under this chapter any tax or assessment is not required to be paid when due, the tax or assessment due and unpaid shall bear interest until paid at the rate of six per cent a year, and no other penalty or interest shall be incurred by reason of the nonpayment. Any lien for the unpaid taxes or assessment shall also include the interest thereon.

§ **-42 Rights to public lands not forfeited; grazing lands.** (a) No right to any lands owned or controlled by the State, initiated or acquired under any laws of the State, including the mining and mineral leasing laws, by a person prior to entering state military service shall during the period of that service be forfeited or prejudiced by reason of the person's absence from the land or the person's failure to perform any work or make any improvements thereon or the person's failure to do any other act required by or under those laws.

(b) This section does not control specific requirements contained in this part.

§ **-43 Income taxes; collection deferred; interest; statute of limitations.** The collection from any person in the state military forces of any tax on the income of such person pursuant to chapter 235, whether falling due prior to or during the person's period of military service, shall be deferred for a period of not more than sixty days after the termination of the person's period of military service if such person's ability to pay such tax is materially impaired by reason of the service. No interest on any amount of tax, collection of which is deferred for any period under this section, and no penalty for nonpayment of such amount during such period, shall accrue for such period of deferment by reason of nonpayment. The running of any statute of limitations against the collection of such tax by distraint or otherwise shall be suspended for the period of military service of any person whose tax collection is deferred under this section, and for an additional period of sixty days beginning with the day following the period of military service.

The provisions of this section shall not apply to the retention or recovery of debt under sections 231-51 to 231-59.

**PART VI. ADMINISTRATIVE REMEDIES**

§ **-51 Transfers to take advantage of chapter.** Notwithstanding the provisions of this chapter to the contrary, the court shall enter such lawful judgment or order, in any proceeding to enforce a civil right, where the court is satisfied that any interest, property, or contract, since the effective date of this chapter, has been transferred or acquired with intent to delay the just enforcement of such right by taking advantage of this chapter.

§ **-52 Certificates of service; persons reported missing.** (a) In any proceeding under this chapter, a certificate signed by the adjutant general shall be prima facie evidence as to any of the following facts stated in the certificate:

- (1) That a person named has not served, is serving, or has served in the state military forces;
- (2) The time when and the place where the person entered military service, the person's residence at that time, and the rank, branch, and unit of such service that the person entered;
- (3) The dates the person served in the state military forces;
- (4) The monthly pay received by the person at the date of issuing the certificate; and
- (5) If applicable, the time when and the place where the person died in or was discharged from such service.

(b) It is the duty of the adjutant general to furnish a certificate on application; and any certificate signed by any one of the officers of the adjutant general

or by any person purporting upon the face of the certificates to have been so authorized shall be prima facie evidence of its contents and of the authority of the officer to issue it.

(c) Where a person in military service has been reported missing, the person shall be presumed to continue in the service until accounted for, and no period under this chapter which begins or ends with the death of such person shall begin or end until the death of such person is in fact reported to or found by the department of defense, or any court or board thereof, or until death is determined by a court of competent jurisdiction. No period limited by this chapter that begins or ends with the death of such person shall be extended beyond a period of six months after the time when this chapter ceases to be in force.

§ -53 **Revocation of interlocutory orders.** Any interlocutory order under this chapter, made upon the court's own motion, may be revoked, modified, or extended by it upon appropriate notice to the parties.

## PART VII. FURTHER RELIEF

§ -61 **Stay of enforcement of obligations, liabilities, taxes.** (a) A person, at any time during the person's period of military service or within sixty days thereafter, may apply to a court for relief from any obligation or liability incurred by that person prior to the person's period of military service or for relief of any tax or assessment whether falling due prior to or during the person's period of military service. The court, after appropriate notice and hearing, unless in its opinion the ability of the applicant to comply with the terms of such obligation or liability or to pay such tax or assessment has not been materially affected by reason of the applicant's military service, may grant the following relief:

- (1) In the case of an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other installment in the nature of a mortgage upon real estate, a stay of the enforcement of the obligation during the applicant's period of military service and, from the date of termination of such period of military service or from the date of application if made after such service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of military service of the applicant, or any part of such combined period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, as the case may be, in equal installments during the combined period at the rate of interest on the unpaid balance as is prescribed in the contract, or other instrument evidencing the obligation, for installments paid when due, and subject to other terms as may be just; and
- (2) In the case of any other obligation, liability, tax, or assessment, a stay of the enforcement thereof during the applicant's period of military service and, from the date of termination of such period of military service or from the date of application if made after such service, for a period of time equal to the period of military service of the applicant or any part of such period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of such period of military service or from the

date of application, as the case may be, in equal periodic installments during such extended period at such rate of interest as may be prescribed for such obligation, liability, tax, or assessment, if paid when due, and subject to such other terms as may be just.

(b) When any court has granted a stay as provided in this section, no fine or penalty by reason of failure to comply with the terms or conditions of the obligation, liability, tax, or assessment as to which the stay was granted, shall accrue during the period in which the terms and conditions of the stay are complied with.

§ -62 Power of attorney. (a) Notwithstanding any other provision of law, a power of attorney that:

- (1) Was duly executed by a person in the military service who is in a missing status (as defined in section 551(2) of title 37, United States Code);
- (2) Designates that person's spouse, parent, or other named or relative as the person's attorney in fact for certain specified, or all, purposes; and
- (3) Expires by its terms after that person entered a missing status, and before or after the effective date of this section;

shall be automatically extended for the period that the person is in a missing status.

(b) No power of attorney executed after the effective date of this section by a person in the military service may be extended under subsection (a) if the document by its terms clearly indicates that the power granted expires on the date specified even though that person, after the date of execution of the document, enters a missing status.

§ -63 Reinstatement of health insurance coverage upon release from service. A person who, by reason of service in the state military forces is entitled to the rights and benefits of this chapter, shall be entitled upon release from such military service to reinstatement of any health insurance which was:

- (1) In effect on the day before service commenced; and
- (2) Terminated effective on a date during the period of service.

(b) An exclusion or a waiting period may not be imposed in connection with reinstatement of health insurance coverage for a health or physical condition of a person under subsection (a), or a health or physical condition for any other person who is covered by the insurance by reason of the coverage of such person, if:

- (1) The condition arose before or during that person's period of training or service in the state military forces;
- (2) An exclusion or waiting period would not have been imposed for the condition during a period of coverage of participation by such person in the insurance; and
- (3) The condition of such person has not been determined by the adjutant general to be a disability incurred or aggravated in the line of duty, within the meaning of section 38 U.S.C. sec. 105.

(c) Subsection (a) does not apply in the case of employer-offered insurance benefits in which a person referred to in such subsection is entitled to participate pursuant to 38 U.S.C. sec. 2021 et seq."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun, before its effective date.

SECTION 4. This Act shall take effect on July 1, 1994.

(Approved June 30, 1994.)

Note

1. No subsection (a) designation.

**ACT 258**

H.B. NO. 65

A Bill for an Act Relating to Housing.

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

SECTION 1. The legislature finds that:

- (1) There is an acute shortage of safe, decent, and affordable rental housing in the State of Hawaii. Consequently, many persons are forced to occupy overcrowded, unsafe, or unsanitary dwelling accommodations; are severely cost-burdened; or, become homeless;
- (2) Many of Hawaii's housing problems stem from an inadequate supply of affordable housing, which has led to low vacancy rates and high rents. Because of the high cost of housing development and the extent of rental expense burden among Hawaii's very low and low income households, actions must be taken to develop and maintain an adequate stock of affordable rental housing;
- (3) An action called for in the state housing functional plan is the preservation of existing public and private housing stock, including federally-assisted, below-market rental housing projects. One such project is the 587-unit Queen Emma Gardens apartment complex which was built in 1961 as an urban renewal project. The rent charged at the project was below prevailing market prices for many years, making it one of Honolulu's most affordable places to live;
- (4) Rents at the Queen Emma Gardens apartment complex have increased by seven to fourteen per cent each year since the 1987 death of the complex's owner, Robert E. Black. Average rent increases, which took effect on January 1, 1992, ranged from \$50 to \$145 per month. Since then, rents have continued to increase and move toward market prices;
- (5) Because of uncertainties surrounding the fate of affordable rental apartments that last beyond their rent restrictions and begin charging closer to what the market will bear, there is concern that the Queen Emma Gardens apartment complex, which is located in an area of Honolulu where housing is in especially short supply, will cease to be affordable;
- (6) Due to the tremendous need for affordable rental housing, the legislature finds that it is in the public interest to provide affordable housing through various means, including preserving affordable rental housing stock;
- (7) The economy of the State and the public interest, health, welfare, security, and happiness of the people of the State are adversely affected by shortages of affordable rental housing;



- (8) The acquisition and preservation of affordable rental housing will promote the economy of the State and public interest, health, welfare, security, and happiness of the people of the State;
- (9) The Constitution of the State of Hawaii empowers the State to provide assistance for persons unable to maintain a standard of living compatible with decency and health. The rising cost of rent expense tied to other cost of living increases is swelling the ranks of persons unable to maintain a decent and healthful standard of life. If the inflationary trend of rent expense continues unchecked, the State could be faced with an inordinately large population of persons deprived of decent and healthful standards of life and consequent disruptions in lawful social behavior. The threat posed by this possibility is sufficiently real and imminent to warrant state action to acquire affordable rental housing stock as a means of curbing continuing inflationary rises in rental housing;
- (10) The State's acquisition of the Queen Emma Gardens apartment complex, by voluntary sale or acquisition through the exercise of the power of eminent domain, for the purposes of this Act, is for the public use and purpose of protecting the public safety, health and welfare of all people in Hawaii; and
- (11) The use of the power of eminent domain to condemn the Queen Emma Gardens apartment complex to preserve the apartment complex in the affordable housing stock is for a public use and purpose.

It is therefore declared to be necessary and it is the purpose of this Act to alleviate the abovementioned conditions by authorizing the purchase by voluntary sale or acquisition through condemnation in eminent domain of the Queen Emma Gardens apartment complex and providing for the public financing of such purchase by voluntary sale or acquisition through condemnation in eminent domain and payment through the issuance of bonds, the expenditure of general revenue funds, and the use of other funds which are at the disposal of the State.

It is the legislature's intent that in the selection of applicants for the Queen Emma Gardens apartment complex, tenants residing in the complex at the time of acquisition shall have first preference to occupy the units; provided that the tenants meet the eligibility criteria established by the housing finance and development corporation.

The legislature also finds that Filipino World War II veterans should receive all the benefits of military veterans with respect to state housing projects.

SECTION 2. Section 359-2, Hawaii Revised Statutes, is amended by amending the definition of "veteran" to read as follows:

““Veteran” includes any person who served in the military or naval forces of the United States during World War II and who has been discharged or released therefrom under conditions other than dishonorable. The term “veteran” shall also include Filipino World War II veterans who served honorably in an active duty status under the command of the United States Armed Forces in the Far East (USAFFE), or within the Philippine Army, the Philippine Scouts, or recognized guerilla units. The Filipino World War II veterans must have served at any time between September 1, 1939, and December 31, 1946, and must have been born in the Philippines and have resided in the Philippines prior to the military service.”

SECTION 3. (a) The housing finance and development corporation is

authorized to issue revenue bonds in accordance with part II of chapter 201E, Hawaii Revised Statutes, in the sum of \$55,000,000, or so much thereof as the corporation deems necessary for fiscal year 1995-1996, for the purpose of financing the purchase by voluntary sale or through the eminent domain acquisition of the Queen Emma Gardens apartment complex (TMK 1-2-1-5:4), provided that the housing finance and development corporation:

- (1) Conducts an appraisal of the Queen Emma Gardens apartment complex;
- (2) Develops a financial plan to assess the feasibility of acquiring the Queen Emma Gardens apartment complex. The corporation shall work with the Queen Emma Gardens Tenants Association to develop a financially viable plan for acquiring the project utilizing public and private resources. Such financial plan may include the construction on the property of an additional apartment complex as an additional source of revenue. If the financial plan is not economically feasible, acquisition of the project shall not proceed. As the corporation is solely responsible for the debt obligation of the revenue bonds to be issued, the corporation, in its sole discretion, shall determine if the plan to acquire the project is economically feasible; and
- (3) Submits a status report to the president of the senate and the speaker of the house of representatives at least twenty days prior to the convening of the 1995 regular session. This report shall include:
  - (A) Actions taken pursuant to this Act;
  - (B) The financial feasibility study assessing the acquisition of Queen Emma Gardens apartment complex by voluntary sale or eminent domain; and
  - (C) Recommendations by the housing finance and development corporation for further legislative action.

(b) The revenue bonds authorized in this Act shall not be issued unless approved by the legislature, by concurrent resolution, during the 1995 regular session.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval, except that section 3 shall take effect on July 1, 1994.

(Approved June 30, 1994.)

## ACT 259

H.B. NO. 2730

A Bill for an Act Relating to Public Access.

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

SECTION 1. The legislature finds that an informed and active citizenry is the dynamic force of democracy. Good government is impossible unless people are provided opportunities to voice their concerns and participate in the decision-making process.

Of the three branches of government, the legislature relies most heavily on direct public input. With the growth in complexity and volume of legislation and

the hectic pace of the brief legislative session, it is imperative that the legislature provide timely information to the public and make every effort to encourage citizen participation.

In this age of information in which state-of-the-art technology enables instant communications throughout the globe, full public participation in the state legislative process is hampered if information about bills, resolutions, hearing dates, and other relevant data is not readily accessible to the citizens of the State. The legislature believes that government agencies exist to aid the people in the formation and conduct of public policy. Accordingly, opening up government processes to public scrutiny and participation is the most viable and reasonable method of protecting democracy and the public interest, and public access through advanced technology and telecommunications is the means by which improved participation in the legislative process will become a reality.

The purpose of this Act is to increase public access to legislative processes and to provide a mechanism to fund these enhanced services.

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

**“CHAPTER  
PUBLIC ACCESS**

§ -1 **Purpose.** The purpose of this chapter is to establish a permanent public access program to ensure improved public participation in the legislative process.

§ -2 **Public access room established.** There is established in the state capitol a public access room in which members of the public shall be allowed to utilize various equipment, services, and facilities to enhance their ability to participate in the legislative process. The costs of operation shall be borne equally by both houses of the legislature.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the following sums, or so much thereof as may be necessary for fiscal year 1994-1995, for the purposes of providing cable television broadcasts for the 1995 regular legislative session:

Senate	\$100,000
House of Representatives	\$100,000

The sums appropriated shall be expended by the senate and the house of representatives, respectively, for the purposes of this Act.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$60,000, or so much thereof as may be necessary for fiscal year 1994-1995, for the staffing, operating, and equipping of the public access room in the state capitol.

The sum appropriated shall be expended by the legislature for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 1994.

(Approved June 30, 1994.)

## ACT 260

H.B. NO. 3716

A Bill for an Act Relating to Central Coordinating Agencies.

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

SECTION 1. Section 46-18, Hawaii Revised Statutes, is amended to read as follows:

“**§46-18 Central coordinating agency.** (a) Each county shall, by ordinance, designate an existing agency within each county which shall be designated as the central coordinating agency and in addition to its existing functions shall:

- (1) Maintain and continuously update a repository of all laws, rules and regulations, procedures, permit requirements and review criteria of all federal, state and county agencies having any control or regulatory powers over land development projects within such county and shall make said repository and knowledgeable personnel available to inform any person requesting information as to the applicability of the same to a particular proposed project within the county[.];
- (2) Study the feasibility and advisability of utilizing a master application form to concurrently file applications for an amendment to a county general plan and development plan, change in zoning, special management area permit and other permits and procedures required for land development projects in the county to the extent practicable with one master application[.];
- (3) Maintain and continuously update a master file for the respective county of all applications for building permits, subdivision maps, and land use designations of the State and county[.];
- (4) When requested by the applicant, [the central coordinating agency shall] endeavor to schedule and coordinate, to the extent practicable, any referrals, public informational meetings, or any public hearings with those held by other federal, state [and/or], or county commissions or agencies, or any combination thereof, pursuant to existing laws pertaining to the respective county[.]; and
- (5) When requested by the applicant, endeavor to schedule and coordinate, to the extent practicable, a single joint public hearing when multiple permits from state or county commissions or agencies, or any combination thereof, require a public hearing.

(b) All state and county departments, divisions, agencies, and commissions, with control or regulatory or advisory powers over land development projects in any county of the State, are authorized to enter into memoranda of understanding for the purpose of promoting joint processing of public hearings. The county departments and agencies, subject to ordinances enacted by the county councils, shall consult with the designated central coordinating agency of each county and shall adopt rules under chapter 91 establishing the order in which multiple permits take precedence and setting the conditions under which the joint public hearing must be held and the time periods within which the hearing and action for multiple permit processing shall occur.

[(b)] (c) All state and county departments, divisions, agencies and commissions, with control or regulatory powers over land development projects in any county of the State shall cooperate with the designated central coordinating

ACT 261

agency of each county in making available and updating information regarding laws, rules and regulations, procedures, permit requirements and review criteria they enforce upon land development projects.

[(c)] (d) Each county shall adopt ordinances required by this section by September 1, 1977, and each designated central coordinating agency shall compile the repository required by subsection (a) and adopt necessary rules pursuant to chapter 91 to implement this section by December 31, 1977."

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

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

(Approved June 30, 1994.)

ACT 261

H.B. NO. 2912

A Bill for an Act Relating to Housing.

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

SECTION 1. Act 227, Session Laws of Hawaii 1992, is amended by amending section 1 to read as follows:

"SECTION 1. Notwithstanding any other law to the contrary, each county, no later than December 31, 1993, shall enact such ordinances as may be necessary to decrease, to not more than twelve months, the total time required by the county to review and, if appropriate, grant, all general plan, development plan, community plan, zone change, and discretionary permit approvals to construct housing in that county. Each county shall also enact such ordinances as may be necessary to decrease to no more than six months the total time to process and approve subdivision, grading, building, and other ministerial development permits.

Notwithstanding any other law to the contrary, each state agency, not later than December 31, 1993, shall adopt such rules as may be necessary to decrease, to not more than six months, the total time required by all state agencies to review,<sup>1</sup> and<sup>2</sup> if appropriate, grant approvals to construct housing in this State. A state agency reviewing a request to construct housing in the State through a contested case proceeding, may extend the six-month time period for an additional ninety days either upon stipulation of all the parties involved in the contested case proceeding, or upon determination by the agency that additional time is necessary to allow an adequate and complete record to be presented to the agency for its consideration. State agencies shall also adopt rules allowing no more than six months to process and approve other state permits required in connection with housing projects such as permits for wastewater treatment facilities; provided that this six month time period shall run concurrently with, not in addition to, county processing time for ministerial permits."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that this Act shall not affect any land use district boundary proceedings that were begun before this Act's effective date.

(Approved June 30, 1994.)

Notes

1. Comma should be underscored.
2. Prior to amendment “,” appeared here.

ACT 262

H.B. NO. 2913

A Bill for an Act Relating to Housing.

*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 designated and to read as follows:

**“§46- Concurrent processing.** When amendments to a county community or development plan, a county zoning map, or any combination of the two, are necessary to permit the development of a housing project, requests for amendments to these plans and zoning maps shall be allowed, if accepted for processing by the county, to be processed concurrently at the request of the applicant. In addition, upon the request of the applicant, these plan and zoning map amendment requests may be processed concurrently with any request to the state land use commission for the redesignation of lands which would permit the development of the housing project.

For the purposes of this section:

“County community or development plan” means a relatively detailed plan for an area or region within a county to implement the objectives and policies of a county general plan.

“Housing project” means a plan, design, or undertaking for the development of single or multi-family housing, including any affordable housing component which may be required by the county council. A housing project may also include ancillary uses such as commercial and industrial uses which are an integral part of the development.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 30, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Privatization.

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

SECTION 1. Section 37-68, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~**§37-68**~~]]~~ **Responsibilities of agencies.** Under such rules [and regulations] as may be prescribed by the director of finance with the approval of the governor:

- (1) Every agency assigned the task of developing programs and preparing program and financial plans, budgetary requests, and program performance reports shall develop such programs and prepare such plans, requests, and reports and submit the same to the director of finance at such times, on such forms, and in such manner as the director may prescribe. Where new programs are being proposed, every agency shall demonstrate that the program:
  - (A) Is an appropriate function of state government; and, as applicable
  - (B) Can be implemented by the public sector as cost-effectively as the private sector while meeting the same plans, goals, objectives, standards, measures of effectiveness, wage, salary, conditions of employment, and employee benefit programs of the State.
- (2) Every agency administering state programs and every agency responsible for the formulation of programs and the preparation of program and financial plans, budgetary requests, and program performance reports, shall furnish the department of budget and finance all such documents and information as the department may from time to time require. Each agency shall make available to the legislature and any member or committee of either house of the legislature, all documents and information as may be requested.
- (3) The director of finance or any employee of the department of budget and finance, when duly authorized, [shall,] for the purpose of securing information, shall have access to and may examine any books, documents, papers, or records of any agency."

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

SECTION 3. This Act shall take effect on July 1, 1996.

(Approved June 30, 1994.)

A Bill for an Act Relating to Agribusiness Development.

*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  
AGRIBUSINESS DEVELOPMENT CORPORATION**

§ **-1 Findings and purpose.** The legislature finds that the downsizing of the sugar and pineapple industries is presenting an unprecedented opportunity for the conversion of agriculture into a dynamic growth industry. Within the next decade, seventy-five thousand acres of agricultural lands and 50,000,000 gallons per day of irrigation water are expected to be released by plantations. The downsizing of the sugar and pineapple industries will idle a valuable inventory of supporting infrastructure including irrigation systems, roads, drainage systems, processing facilities, workshops, and warehouses. The challenge to government and business is to conserve and convert the arable lands and their associated production infrastructure in a timely manner into new productive uses that are based upon strategies developed from detailed marketing analysis and monitoring of local, national, and international opportunities. Constantly evolving economies require an aggressive and dynamic leadership for the promotion and development of agricultural enterprises, and centralized leadership to coordinate industry development, provide industry-wide services, provide marketing assistance, and facilitate investments and coventures in viable enterprises.

The purpose of this chapter is to create a vehicle and process to make optimal use of agricultural assets for the economic, environmental, and social benefit of the people of Hawaii. This chapter establishes a public corporation to administer an aggressive and dynamic agribusiness development program. The corporation shall coordinate and administer programs to assist agricultural enterprises to facilitate the transition of agricultural infrastructure from plantation operations into other agricultural enterprises, to carry on the marketing analysis to direct agricultural industry evolution, and to provide the leadership for the development, financing, improvement, or enhancement of agricultural enterprises.

§ **-2 Definitions.** As used in this chapter, unless the context clearly requires otherwise:

“Agriculture” means the production for marketing and exporting of plant and animal life on land and within ponds and other bodies of water for food, fiber, and raw materials for value-added products, and any agricultural enterprise or enterprises organized for the production of agricultural materials or value-added products based on detailed marketing analysis and strategies to exploit profitable potentials in local, national, and international markets, including general farming, cane growing, fruit growing, flower growing, aquaculture, growing of timber and forest products, apiary, grazing, dairying, and the production of any form of livestock or poultry, and their appurtenant services and facilities.

“Board” means the board of directors of the agribusiness development corporation.

“Coordinating entrepreneur” means a qualified person capable of organizing, operating, and assuming the risk for enterprises that may include securing land and seed capital, locating farmers, arranging right-to-till agreements, supplying materials, maintaining equipment and infrastructure, and providing for the processing and marketing of products.

“Corporation” means the agribusiness development corporation.



“Coventure” means an investment by the corporation in qualified securities of an enterprise in which a substantial investment is also being made or has been made by a professional investor to provide seed capital to an enterprise. A guarantee by the corporation of qualified securities provided by a professional investor shall be classified as a coventure. An investment made by the corporation, which is a direct investment, may later be classified as a coventure upon an investment by a professional investor.

“Direct investment” means an investment by the corporation in qualified securities of an enterprise in which no investment is being or has been made by a professional investor to provide seed capital to the enterprise.

“Enterprise” means a business with its principal place of business in Hawaii, which is, or proposes to be, engaged in agricultural crop development, development of new value-added products, enhancement of existing agricultural commodities, and the application of existing agricultural appurtenant facilities to productive uses; provided that the majority of whatever the corporation produces shall be produced for export.

“Export crops” means crops whose majority of production shall be for export outside the State or whose majority of the value-added products shall be exported.

“Fund” means the Hawaii agricultural development revolving fund.

“Private lender” includes banks, savings and loan associations, mortgage companies, and other qualified companies whose business includes the making of loans in the State.

“Professional investor” means any bank, bank holding company, savings institution, farm credit institution, trust company, insurance company, investment company registered under the federal Investment Company Act of 1940, financial services loan company, pension or profit-sharing trust or other financial institution or institutional buyer, licensee under the federal Small Business Investment Act of 1958, or any person, partnership, or other entity of whose resources, a substantial amount is dedicated to investing in securities or debt instruments, and whose net worth exceeds \$250,000.

“Project” means a specific undertaking, improvement, or system consisting of work or improvement, including personal property or any interest therein, acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by the corporation.

“Project cost” means the total of all costs incurred by the corporation in carrying out all undertakings that it considers reasonable and necessary for the development of a project, including, but not limited to: studies; plans; specifications; architectural, engineering, or any other development related services; acquisition of land and any improvement thereon; site preparation and development; construction; reconstruction; rehabilitation; the necessary expenses in administering this chapter; and the cost of financing the project; and relocation costs.

“Project facilities” includes roads and streets, utility and service corridors, utility lines where applicable, water and irrigation systems, lighting systems, security systems, sanitary sewerage systems, and other community facilities where applicable.

“Qualified person” includes any individual, partnership, corporation, or public agency possessing the competence, expertise, experience, and resources, including financial, personnel, and tangible qualifications, as may be deemed desirable by the corporation in administering this chapter.

“Qualified security” means any note, stock, treasury stock bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, preorganization certificate of subscription, transferable share, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or patent application, or in royalty or other payments under such a patent or application, or, in general, any interest or instrument commonly known as a “security” or any certificate for, receipt for, or option, warrant, or right to subscribe to or purchase any of the foregoing.

“Revenue bonds” means bonds, notes, or other evidence of indebtedness of the corporation issued to finance any project facility.

“Right-to-till agreement” means a contract with a farmer assigning the farmer to a particular parcel or parcels with conditions set to specify the crop or crops that are to be grown, when the crops are to be grown, and how the crops are to be grown.

“Seed capital” means financing that is provided for the development, refinement, and commercialization of a product or process and other working capital needs.

“Trust indenture” means an agreement by and between the corporation and a trustee that sets forth the duties of the trustee with respect to the revenue bonds, the security thereof, and other provisions as may be deemed necessary or convenient by the corporation to secure the revenue bonds.

“Trustee” means a national or state bank or trust company, within or outside the State, that enters into a trust indenture.

“Value-added” means any activity that increases, by means of processing or any other means, the value of raw agricultural materials.

**§ -3 Agribusiness development corporation; board of directors; established.** (a) There is established the agribusiness development corporation, which shall be a public body corporate and politic and an instrumentality and agency of the State. The corporation shall be headed by a board of directors. The corporation shall be placed within the department of agriculture for administrative purposes, but the corporation may later incorporate as a nonprofit corporation if this proves desirable to further its objectives.

(b) The board of directors of the corporation shall consist of eleven voting members, of whom eight shall be appointed by the governor for staggered terms. These eight members shall be selected on the basis of their knowledge, experience, and proven expertise in small and large businesses within the agricultural industry, agricultural economics, finance, marketing, and management. Of these eight members, four shall be selected by the senate president and four shall be selected by the speaker of the house of representatives; provided that two shall be from the city and county of Honolulu, two shall be from the county of Hawaii, two shall be from the county of Maui, and two shall be from the county of Kauai. The director of business, economic development, and tourism; the chairperson of the board of agriculture; and the chairperson of the board of land and natural resources, or their designated representatives, shall be ex officio, voting members of the board. All members shall continue in office until their respective successors have been appointed and qualified. The board shall annually elect its chairperson from among its members provided that the chairperson shall not be an ex-officio member.

(c) The members of the board shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(d) The board shall appoint an executive director, who shall serve at the pleasure of the board and shall be exempt from chapters 76 and 77. The salary of the executive director shall be set by the board.

(e) The board, through its executive director, may appoint officers, agents, and employees; prescribe their duties and qualifications; and fix their salaries, without regard to chapters 76 and 77.

§ -4 Powers; generally. (a) Except as otherwise limited by this chapter, the corporation may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at its pleasure;
- (3) Make and alter bylaws for its organization and internal management;
- (4) Adopt rules under chapter 91 necessary to effectuate this chapter in connection with its projects, operations, and properties;
- (5) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (6) Carry out surveys, research, and investigations into technological, business, financial, consumer trends, and other aspects of agricultural production in the national and international community;
- (7) Acquire or contract to acquire by grant or purchase any real, personal, or mixed property or any interest therein for its immediate or future use for the purposes of this chapter; own, hold, improve, and rehabilitate any real, personal, or mixed property acquired, and sell, assign, exchange, transfer, convey, lease, or otherwise dispose of, or encumber the same;
- (8) By itself, or in partnership with qualified persons, acquire, construct, reconstruct, rehabilitate, improve, alter, or repair any infrastructure or accessory facilities in connection with any project; own, hold, sell, assign, transfer, convey, exchange, lease, or otherwise dispose of, or encumber any project;
- (9) In cooperation with the department of agriculture, pursuant to chapter 167, or otherwise through direct investment or coventure with a professional investor or enterprise or any other person, or otherwise, to acquire, construct, operate, and maintain water facilities for conveying, distributing, and transmitting water for irrigation and agricultural uses at rates or charges determined by the corporation; provided that:
  - (A) This chapter shall not be construed to permit or allow the department of agriculture or any agribusiness development corporation to:
    - (i) Amend or modify rights or entitlements to water as provided for by Article XI, section 7, of the Constitution of the State of Hawaii, or the Hawaiian Homes Commission Act, 1920, as amended, and chapter 168, Hawaii Revised Statutes;
    - (ii) Diminish or abridge the traditional and customary rights of ahupua'a tenants who inhabited the Hawaiian islands prior to 1778 under chapter 7, section 7-1, and chapter 1, section 1-1, Hawaii Revised Statutes; and
    - (iii) Impair, abridge, or terminate the legal rights or interests to water and its uses, whether by lease, easement, or

other means, which are possessed or held by organizations whose primary purpose is to benefit people of Hawaiian ancestry;

and

- (B) All usage of water shall be in accordance with chapter 74c<sup>1</sup> and other applicable laws in the State;
- (10) Assist agricultural enterprises by conducting detailed marketing analysis and developing marketing and promotional strategies to strengthen the position of those enterprises and to better exploit local, national, and international markets;
  - (11) Carry out specialized programs designed to develop new markets for Hawaii agricultural products;
  - (12) Receive, examine, and determine the acceptability of applications of qualified persons for allowances or grants for the development of new crops and agricultural products, the expansion of established agricultural enterprises, and the altering of existing agricultural enterprises;
  - (13) Coordinate its activities with any federal or state farm credit programs;
  - (14) Grant options to purchase any project or to renew any lease entered into by it in connection with any of its projects, on the terms and conditions it deems advisable;
  - (15) Provide advisory, consultative, training, and educational services, technical assistance, and advice to any person, partnership, or corporation, either public or private, in order to carry out the purposes of this chapter, and engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
  - (16) Procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable;
  - (17) Accept gifts or grants in any form from any public agency or any other source; and
  - (18) Do all things necessary or proper to carry out the purposes of this chapter.

(b) The corporation shall develop, promote, assist, and market export crops and other crops for local markets approved by the board of agriculture.

§ -5 **Hawaii agribusiness plan.** (a) The corporation shall prepare the Hawaii agribusiness plan which shall define and establish goals, objectives, policies, and priority guidelines for its agribusiness development strategy. The plan shall include but not be limited to:

- (1) An inventory of agricultural lands with suitable adequate water resources that are or will become available due to the downsizing of the sugar and pineapple industries that can be used to meet present and future agricultural production needs;
- (2) An inventory of agricultural infrastructure that will be abandoned by sugar and pineapple industries such as irrigation systems, drainage systems, processing facilities, and other accessory facilities;
- (3) An analysis of imported agricultural products and the potential for increasing local production to replace imported products in a manner that complements existing local producers and increases Hawaii's agricultural self-sufficiency;

- (4) Alternatives in the establishment of sound financial programs to promote the development of diversified agriculture;
- (5) Feasible strategies for the promotion, marketing, and distribution of Hawaii agricultural products in local, national, and international markets;
- (6) Programs to promote and facilitate the absorbing of displaced agricultural workers into alternative agricultural enterprises;
- (7) Strategies to insure the provision of adequate air and surface transportation services and supporting facilities to support the agricultural industry in meeting local, national, and international market needs;
- (8) Proposals to improve the gathering of data and the timely presentation of information on market demands and trends that can be used to plan future harvests and production; and
- (9) Strategies for federal and state legislative actions that will promote the development and enhancement of Hawaii's agricultural industries.

(b) The corporation shall revise the Hawaii agribusiness plan from time to time and shall incorporate the plan in its annual report to the governor and the legislature as provided in section -19.

**§ -6 Subsidiaries; establishment.** (a) The corporation may exercise its powers through one or more subsidiary corporations. The corporation, by resolution, may direct any of its members, officers, or employees to organize a subsidiary corporation pursuant to either chapter 415 or chapter 415B. The resolution shall prescribe the purposes for which the subsidiary corporation is established. The corporation shall be a subsidiary corporation as long as more than half of its voting shares are owned or held by the corporation, or a majority of its directors are designated by the corporation.

(b) The corporation may transfer to any subsidiary corporation any moneys; any real, personal, or mixed property; or any project, in order to carry out the purposes of this chapter. Each subsidiary corporation shall have all the powers of the corporation.

**§ -7 Agricultural projects; agricultural development plans.** (a) The corporation may develop and implement agricultural projects where large tracts of agricultural land have been or will be taken out of productive agriculture or where, through detailed analysis, opportunities exist to exploit potential local, national, and international markets.

(b) The corporation may initiate and coordinate the preparation of business and agricultural development plans for its projects. The plans shall include a proposal for the organization of the enterprise, a marketing information and strategy, the impact on existing agricultural operations throughout the State, and a recommendation for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any infrastructure or accessory facilities in connection with any project.

(c) The corporation may enter into cooperative agreements with coordinating entrepreneurs or public agencies when the powers, services, and capabilities of the persons or agencies are deemed necessary and appropriate for the development and implementation of the business and agricultural development plans.

(d) The agricultural planning activities of the corporation shall be coordinated with the county planning departments and the county land use plans, policies, and ordinances.

(e) The corporation may amend the business and agricultural development plans as may be necessary.

(f) Any undertaking by the corporation pursuant to this chapter shall be with the express written consent of the landowner or landowners directly affected.

§ **-8 Project facility program.** (a) The corporation may develop a project to identify necessary project facilities within a project area.

(b) Whenever the corporation undertakes, or causes to be undertaken, any project facility as part of a project, the cost of providing the project facilities shall be assessed against the real property in the project area specially benefiting from the project facilities. Subject to the express written consent of the landowners directly affected, the corporation shall determine the properties that will benefit from the project facilities to be undertaken and may establish assessment areas that include the properties specially benefiting from the project facilities. The corporation may issue and sell bonds in such amounts as may be authorized by the legislature to provide funds to finance the project facilities. The corporation shall fix the assessments against the real property specially benefited.

(c) The corporation may adopt rules pursuant to chapter 91 to establish the method of undertaking and financing project facilities in a project area.

(d) Bonds issued to provide funds to finance project facilities shall be secured solely by the real properties benefited or improved and the assessments thereon, or by the revenues derived from the project for which the bonds were issued, including reserve accounts and earnings thereon, insurance proceeds, and other revenues, or any combination thereof. The bonds may be additionally secured by the pledge or assignment of loans and other agreements or any note or other undertaking, obligation, or property held by the corporation. The bonds shall be issued according to and subject to the rules adopted pursuant to this section. Any other law to the contrary notwithstanding, in assessing real property for project facilities, the corporation shall assess the real property within a project area according to the special benefits conferred upon the real property by the project facilities. These methods may include assessment on a frontage basis or according to the area of real property within a project area, or any other assessment method that assesses the real property according to the special benefit conferred, or any combination thereof. No such assessment levies against real property specially benefited under this chapter shall constitute a tax on real property within the meaning of any law.

(e) The rules adopted pursuant to this section may include, but are not limited to:

- (1) The methods of establishing assessment areas within a project area;
- (2) The method of assessing real properties specially benefited;
- (3) The costs to be borne by the corporation, the county in which the project facilities are situated, and the property owners;
- (4) The procedures before the corporation relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices;
- (5) Provisions relating to assessments;
- (6) Provisions relating to financing, such as bonds, the Hawaii agricultural development revolving fund, advances from available funds, special funds for the payment of bonds, the payment of principal and interest, and the sale and use of bonds;
- (7) Provisions relating to funds and the refunding of outstanding debts; and

(8) Provisions relating to limitations on time to sue, and other related provisions.

(f) Any other provisions to the contrary notwithstanding, the corporation, at its discretion, may enter into any agreement with the county in which project facilities are located, to implement the purposes of this section.

(g) All sums collected under this section shall be deposited in the fund established by section -17, except that all moneys collected on account of assessments and interests thereon for any specific project facilities financed by the issuance of bonds, shall be set apart in a separate special fund and applied solely to the payment of:

- (1) The principal and interest on these bonds;
- (2) The cost of administering, operating, and maintaining the program;
- (3) The establishment of reserves; and
- (4) Other purposes as may be authorized in the proceedings providing for the issuance of the bonds.

If any surplus remains in any special fund after the payment of the bonds chargeable against that special fund, the surplus shall be credited to and become a part of the fund. Notwithstanding any other law to the contrary, moneys in the fund may be used to make up any deficiencies in the special fund.

(h) If the project facilities to be financed through bonds by the corporation may be dedicated to the county in which the project facilities are to be located, the corporation shall ensure that the project facilities are designed and constructed to meet county requirements.

§ -9 **Bonds.** (a) The corporation, with the approval of the governor, may issue from time to time revenue bonds in amounts not exceeding the total amount of bonds authorized to be issued by the legislature for the purpose of constructing, acquiring, remodeling, furnishing, and equipping any project facility, including the acquisition of the site thereof.

(b) All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this chapter.

(c) The revenue bonds shall be issued in the name of the corporation and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding thirty years from the date of issuance.

§ -10 **Revenue bonds; payment and security.** (a) The revenue bonds shall be payable from and secured by the real properties benefited or improved and the assessments thereon, or by the revenues derived from the project facility for which the revenue bonds were issued, including revenue derived from insurance proceeds and reserve accounts, and earnings thereon.

(b) The corporation may pledge revenues derived from the project facility financed from the proceeds of the revenue bonds to the punctual payment of the principal, interest, and redemption premiums, if any, on the revenue bonds.

(c) The revenue bonds may be additionally secured by the pledge or assignment of the loans and other agreements or any note or other undertaking, obligation, or property held by the corporation to secure the loans.

(d) Any pledge made by the corporation shall create a perfected security interest in the revenues, moneys, or property so pledged and thereafter received by the corporation from and after the time that the financing statement with respect to the revenues, moneys, or property so pledged and thereafter received are filed with the bureau of conveyances. Upon this filing, the revenues, moneys, or property so pledged and thereafter received by the corporation shall immediately be subject to a lien of any such pledge without any physical delivery thereof

or having claims of any kind in tort, contract, or otherwise against the corporation, irrespective of whether the parties have notice thereof. This section shall apply to any financing statement heretofore or hereafter filed with the bureau of conveyances with respect to any pledge made to secure revenue bonds issued under this chapter.

§ **-11 Revenue bonds; interest rate, price, and sale.** (a) The revenue bonds issued pursuant to this chapter shall bear interest at such rate or rates and shall be payable on such date or dates, as the corporation shall determine.

(b) The corporation shall include the costs of undertaking the project facility for which the revenue bonds are issued in determining the principal amount of revenue bonds to be issued. In determining the cost of undertaking the project facility, the corporation may include:

- (1) The cost of constructing, acquiring, remodeling, furnishing, and equipping the project facility, including the acquisition of the site thereof;
- (2) The cost of purchasing or funding loans or other agreements entered into for the project facility;
- (3) The costs of studies and surveys;
- (4) Insurance premiums;
- (5) Underwriting fees;
- (6) Financial consultant, legal, accounting, and marketing services incurred;
- (7) Reserve account, trustee, custodian, and rating agency fees; and
- (8) Any capitalized interest.

(c) The revenue bonds may be sold at public or private sale, and for a price as may be determined by the corporation.

§ **-12 Revenue bonds; investment of proceeds, and redemption.** Subject to any agreement with the holders of its revenue bonds, the corporation may:

- (1) Invest its moneys not required for immediate use, including proceeds from the sale of revenue bonds, in any investment in accordance with procedures prescribed in a trust indenture; and
- (2) Purchase its revenue bonds out of any fund or money of the corporation available therefor, and hold, cancel, or resell the revenue bonds.

§ **-13 Revenue bonds; special funds.** (a) A separate special fund shall be established for each project facility financed from the proceeds of the revenue bonds secured under the same trust indenture. Each fund shall be designated "project facility revenue bond special fund" and shall bear additional designation as the corporation deems appropriate to properly identify the fund.

(b) Notwithstanding any other law to the contrary, including section 15, all revenues, income, and receipts derived from the project facility for which the revenue bonds are issued shall be paid into the project facility revenue bond fund established for that project facility and applied as provided in the proceedings authorizing the issuance of the revenue bonds.

§ **-14 Trustee; designation, duties.** (a) The corporation shall designate a trustee for each issue of revenue bonds secured under the same trust indenture.

(b) The trustee shall be authorized by the corporation to hold and administer the project facility revenue bond special fund established pursuant to



section -11, to receive and receipt for, hold, and administer the revenues derived by the corporation from the project facility for which the revenue bonds were issued, and to apply these revenues to the payment of the cost:

- (1) Of undertaking the project facility;
- (2) Of administering and operating the proceedings providing for the issuance of the revenue bonds;
- (3) To pay the principal or interest on these bonds;
- (4) To the establishment of reserves; and
- (5) To other purposes as may be authorized in the proceedings providing for the issuance of the revenue bonds.

(c) Notwithstanding section 39-68 to the contrary, the director of finance may appoint the trustee to serve as fiscal agent for:

- (1) The payment of the principal of and interest on the revenue bonds; and
- (2) The purchase, registration, transfer, exchange, and redemption of the bonds.

(d) The trustee shall perform additional functions with respect to the payment, purchase, registration, transfer, exchange, and redemption of the bonds, as the director of finance may deem necessary, advisable, or expeditious, including the holding of the revenue bonds and coupons that have been paid and the supervision of the destruction thereof in accordance with applicable law.

(e) Nothing in this chapter shall limit or be construed to limit the powers granted to the director of finance in sections 36-3, 39-13, and 39-68(a), to appoint the trustee or others as fiscal agents, paying agents, and registrars for the revenue bonds or to authorize and empower those fiscal agents, paying agents, and registrars to perform the functions referred to in those sections.

**§ -15 Trust indenture.** (a) A trust indenture may contain covenants and provisions authorized by part III of chapter 39, and as may be deemed necessary or convenient by the corporation for the purposes of this chapter.

(b) A trust indenture may allow the corporation to pledge and assign to the trustee loans and other agreements related to the project facility, and the rights of the corporation thereunder, including the right to receive revenues thereunder and to enforce the provision thereof.

(c) A trust indenture shall also contain provisions as to:

- (1) The investment of the proceeds of the revenue bonds, the investment of any reserve for the bonds, the investment of the revenues of the project facility, and the use and application of the earnings from investments; and
- (2) The terms and conditions upon which the holders of the revenue bonds or any portion of them or any trustee thereof may institute proceedings for the foreclosure of any loan or other agreement or any note or other undertaking, obligation, or property securing the payment of the bonds and the use and application of the moneys derived from the foreclosure.

(d) A trust indenture may also contain provisions deemed necessary or desirable by the corporation to obtain or permit, by grant, interest, subsidy, or otherwise, the participation of the federal government in the financing of the costs of undertaking the project facility.

**§ -16 Use of public lands; acquisition of state lands.** (a) Notwithstanding chapter 171 to the contrary, the governor may transfer lands located within a project area to the corporation for its use.

(b) If state lands under the control and management of other public agencies are required by the corporation for its purposes, the agency having the control and management of those required lands, upon request by the corporation and with the approval of the governor, may lease the lands to the corporation upon such terms and conditions as may be agreed to by the parties.

(c) Notwithstanding subsection (b) to the contrary, no public lands shall be leased to the corporation if the lease would impair any covenant between the State or any county, or any department or board thereof, and the holders of bonds issued by the State or the county, department, or board.

**§ -17 Hawaii agricultural development revolving fund; established; use of corporation funds.** (a) There is established the Hawaii agricultural development revolving fund, to which shall be credited any state appropriations or other moneys made available to the fund, to be expended as directed by the corporation.

(b) The corporation shall hold the fund in an account or accounts separate from other funds. The corporation shall invest and reinvest the fund and the income thereof to:

- (1) Purchase qualified securities issued by enterprises for the purpose of raising seed capital; provided that the investment shall comply with the requirements of this chapter;
- (2) Make grants, loans, and provide other monetary forms of assistance necessary to carry out the purposes of this chapter; and
- (3) Purchase securities as may be lawful investments for fiduciaries in the State.

All appropriations, grants, contractual reimbursements, and other funds not designated for this purpose may be used to pay for the proper general expenses and to carry out the purposes of the corporation.

(c) The corporation shall purchase qualified securities issued by an enterprise only after:

- (1) Receiving:
  - (A) An application from the enterprise containing a business plan, which is consistent with the business and agricultural development plan, including a description of the enterprise and its management, product, and market;
  - (B) A statement of the amount, timing, and projected use of the capital required;
  - (C) A statement of the potential economic impact of the enterprise, including the number, location, and types of jobs expected to be created; and
  - (D) Any other information as the corporation shall require;
- (2) Determining, based upon the application submitted, that:
  - (A) The proceeds of the investment will be used only to cover the seed capital needs of the enterprise, except as authorized in this section;
  - (B) The enterprise has a reasonable chance of success;
  - (C) The enterprise has the reasonable potential to create employment within the State and offers employment opportunities to residents;
  - (D) The coordinating entrepreneur and other founders of the enterprise have already made or are prepared to make a substantial financial and time commitment to the enterprise;

- (E) The securities to be purchased are qualified securities;
- (F) There is reasonable possibility that the corporation will recoup at least its initial investment; and
- (G) Binding commitments have been made to the corporation by the enterprise for adequate reporting of financial data to the corporation, which shall include a requirement for an annual or other periodic audit of the books of the enterprise, and for control by the corporation that it considers prudent over the management of the enterprise, in order to protect the investment of the corporation, including membership on the board of directors of the enterprise, ownership of voting stock, input in management decisions, and the right of access to the financial and other records of the enterprise;

and

- (3) Entering into a binding agreement with the enterprise concerning the manner of payback by the enterprise of the funds advanced, granted, loaned, or received from the corporation. The manner of payback may include the payment of dividends, returns from the public sale of corporate securities or products, royalties, and other methods of payback acceptable to the corporation. In determining the manner of payback the corporation shall establish a rate of return or rate of interest to be paid on any investment, loan, or grant of corporation funds under this section.

(d) If the corporation makes a direct investment, it shall also find that a reasonable effort has been made to find a professional investor to make an investment in the enterprise as a coventure, and that the effort was unsuccessful. The findings, when made by the corporation, shall be conclusive.

(e) The corporation shall not make investments in qualified securities issued by an enterprise in excess of the following limits:

- (1) Not more than \$500,000 shall be invested in the securities of any one enterprise, except that more than a total of \$500,000 may be invested in the securities of any one enterprise, if the corporation finds, after its initial investment, that additional investments in that enterprise are required to protect the initial investment of the corporation, and the other findings set forth in subsections (d) and (e) are made as to the additional investment;
- (2) The corporation shall not own securities representing more than forty-nine per cent of the voting stock of any one enterprise at the time of purchase by the corporation after giving effect to the conversion of all outstanding convertible securities of the enterprise, except that in the event of severe financial difficulty of the enterprise, threatening the investment of the corporation in the enterprise, a greater percentage of those securities may be owned by the corporation; and
- (3) Not more than fifty per cent of the assets of the corporation shall be invested in direct investments at any time.

(f) No investment, loan, grant, or use of corporate funds for the purposes of this chapter shall be subject to chapter 42D or 103D.

§ -18 **Exemption from taxation.** The corporation shall not be required to pay state taxes of any kind.

§ **-19 Annual report.** The corporation shall submit to the governor and the legislature, no later than twenty days prior to the convening of each regular session, a complete and detailed report of its plans and activities.”

SECTION 2. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of “public utility” to read:

““Public utility” includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the State, or between points within the State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term:

- (1) [Includes] Shall include any person[, ] insofar as that person owns or operates a private sewer company or sewer facility;
- (2) Shall not include any person insofar as that person owns or operates an aerial transportation enterprise;
- (3) Shall not include persons owning or operating taxicabs, as defined in this section;
- (4) Shall not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points [which] that the public utilities commission finds to be inadequately serviced without regulation under this chapter;
- (5) Shall not include persons engaged in the business of warehousing or storage unless the commission finds that regulation thereof is necessary in the public interest;
- (6) Shall not include [the]:
  - (A) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally[, and also shall not include the]; and
  - (B) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure;
- (7) Shall not include any person who [(A) controls,];
  - (A) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from nonfossil fuel sources[, and (B) provides,]; and
  - (B) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public; [and]
- (8) Shall not include a telecommunications provider only to the extent determined by the commission pursuant to section 269-16.9[.]; and
- (9) Shall not include any person who controls, operates, or manages plan or facilities developed pursuant to chapter 167 for conveying,

distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose.

In the event the application of this chapter is ordered by the commission in any case provided in paragraphs (4), (5), [and] (8), and (9), the business of any public utility that presents evidence of bona fide operation on the date of the commencement of the proceedings resulting in the order shall be presumed to be necessary to public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to such terms and conditions as the commission may prescribe, as provided in [section] sections 269-16.9 and 269-20 [and section 269-16.9].”

SECTION 3. Chapter 147, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . MARKETING ORDER REVOLVING FUND**

**§147- Marketing order revolving fund.** There is established a revolving fund for use by the department of agriculture in providing inspection services for federal marketing order programs. Moneys in the fund may be expended for materials, salaries, equipment, training, and other costs related to providing inspection services. Moneys derived from the inspection services provided shall be deposited in the fund. Marketing order inspectors hired under this chapter shall be exempt from chapters 76 and 77.”

SECTION 4. Section 211F-1, Hawaii Revised Statutes, is amended by amending the definition of “economic development project” to read:

““Economic development project” means an endeavor related to industrial[,] or commercial[, or agricultural] enterprise. [Economic] An economic development project shall not include tourism-related service businesses, nor that portion of an endeavor devoted to the sale of goods at retail, except that, as used in relation to the corporation procuring insurance for a transaction entered into by a depository institution, and as used in relation to an investment by the corporation in a minority-owned business, an economic development project may include that portion of an endeavor devoted to the sale of goods at retail. The term shall not include that portion of an endeavor devoted to the construction of housing.”

SECTION 5. Chapters 153 and 163, Hawaii Revised Statutes, are repealed.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000, or so much thereof as may be necessary for fiscal year 1994-1995, to carry out the purposes of this Act, including the hiring of necessary staff.

The sum appropriated shall be expended by the department of agriculture.

SECTION 7. All agricultural projects, agricultural development plans, and project facility programs developed by the corporation must be approved by the board of agriculture before implementation.

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

SECTION 9. This Act shall take effect on July 1, 1994; provided that the chairperson of the board of agriculture shall transfer to the credit of the state general fund, all unexpended or unencumbered balances remaining in the Hawaii agricultural products revolving fund, section 153-3, Hawaii Revised Statutes, prior to June 30, 1994.

(Approved June 30, 1994.)

Note

1. So in original.

ACT 265

H.B. NO. 3164

A Bill for an Act Relating to Health Care Workers.

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

SECTION 1. The purpose of this Act is to authorize the director of health to appoint advisory committees to advise health care workers infected with the human immunodeficiency virus (HIV), hepatitis B virus (HBV), or other blood-borne infections. This is to comply with guidelines of the Centers for Disease Control, issued in July of 1991, entitled "Recommendations for Preventing the Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) to Patients during Exposure-prone Invasive Procedures." Federal law requires states to adopt the Centers for Disease Control recommendations or their equivalent or else risk losing federal public health funds.

The director of health, with the assistance of an ad hoc advisory group broadly representative of the health-care community, has issued a policy statement and guidelines that have been approved by the Centers for Disease Control. The guidelines provide for convening advisory committees to advise health care workers infected with HIV, HBV, or other blood-borne infections on the risks of transmission of the diseases. However, health care workers are needed to serve on the advisory committees, but they are reluctant to do so unless they receive the statutory protections available to members of boards and commissions while serving on advisory committees. The legislature finds that it is in the public interest to assure that qualified people are willing to serve on advisory committees.

SECTION 2. Chapter 325, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§325- Advisory committees for health care workers infected with blood-borne infections.** (a) The director of health may appoint ad hoc advisory committees as needed to provide advice and recommendations to health care workers infected with HIV, HBV, or other blood borne infections on the risks of blood-borne disease transmission through exposure-prone invasive procedures. An advisory committee may recommend changes in a health care worker's practice, including patient notification, to reduce the possibility of transmission to patients. Each committee shall include:

- (1) An infectious disease specialist with expertise appropriate to the case; and
- (2) A professional peer of the infected health care worker, who has expertise in the professional practice performed by that worker.

## ACT 266

The committee may also include the health care worker's personal physician and, if the worker's practice is facility-based, members of the facility's infection control committee. The department of health shall provide oversight and necessary staff support to the advisory committees when resources permit.

(b) An advisory committee shall serve only as long as necessary for the particular case or cases for which the committee is appointed, but its members may be named to subsequent committees as needed. Members of advisory committees shall serve without compensation, but shall be reimbursed for travel expenses as necessary by the department of health for the performance of their duties.

(c) Notwithstanding any law to the contrary, work of the advisory committees, including records, shall be confidential, except that a summary of non-identifying information and general policy recommendations may be made available to the public. All committee meetings shall be closed to the public."

SECTION 3. New statutory material is underscored.<sup>1</sup>

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

(Approved July 1, 1994.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 266

H.B. NO. 3327

A Bill for an Act Relating to Establishment of an Agency for Community Hospitals.

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

SECTION 1. The purpose of this Act is to affirm the State's commitment to providing quality health care to all people by creating an agency for community hospitals.

The legislature recognizes that the State's community hospitals system is the fifth largest in the nation. With rapid changes taking place in the health care industry and the impending implementation of uncertain national and local health care reforms, the legislature recognizes the necessity of permanently allowing the community hospitals system to gain more control over their operations to compete and remain viable.

The current administrative arrangement places the State's community hospitals system in a division within the department of health. However, a health care system of such critical significance to the quality of people's lives requires more independence of function.

Act 211, Session Laws of Hawaii 1993, extended the pilot autonomy project to eight of thirteen facilities in the division of community hospitals, which has contributed effectively to expediting and improving the delivery of health care services by the community hospitals system. Positive benefits have been gained in the operations and financial performance of the hospitals. However, the pilot project and its benefits will be lost in June 1996, when Act 211 is repealed. Thus, for the community hospitals system to maintain these benefits, this Act

starts the process of making the provisions of the pilot project permanent by establishing a task force and management team to facilitate the transition of the division of community hospitals into an agency for community hospitals, administratively placed within the department of health.

SECTION 2. (a) Before the convening of the regular session of 1995, the governor shall prepare an organizational and functional plan for the agency for community hospitals. For this purpose, the governor shall appoint an assisting task force consisting of, but not limited to, representatives of the departments of health, budget and finance, personnel services, accounting and general services, attorney general, the designated collective bargaining representatives of employees in bargaining units (1), (2), (3), (4), (9), (10), and (13), representatives from the hospital industry, representatives from health maintenance organizations, and community members from each county. The organizational and functional plan shall be submitted to the legislature no later than thirty days prior to the convening of the regular session of 1995 as part of the biennial executive budget request.

(b) Upon the completion of the organizational and functional plan, the governor shall appoint a management team to develop transition plans, finalize position descriptions and revise personnel classifications, establish a personnel records system, develop accounting and fiscal controls, and attend to other administrative details so that the new agency will be operational by July 1, 1996. A report describing the action taken shall be submitted to the legislature not less than thirty days prior to the convening of the regular session of 1996. A budget request for the agency for community hospitals shall be included as part of the supplemental executive budget request.

(c) Upon completion of any government employee's assignment to the task force, the employee shall return to the position in which the employee last held a permanent appointment. No employee shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges as a consequence of assignment to the task force.

(d) The task force and management team shall give quarterly progress reports to a committee composed of the director of health, the deputy director for community hospitals, and the division of community hospitals' management advisory committee county chairs.

SECTION 3. (a) The task force established in section 2 shall consider, evaluate, and recommend the scope of authority to be granted to the agency for community hospitals, including but not limited to the following:

- (1) Developing its own policies, procedures, and rules necessary to plan, operate, manage, and control the system of public health facilities;
- (2) Evaluating the need for new public health facilities;
- (3) Entering into and performing any contracts, leases, cooperative agreements, or other transactions that may be necessary in the performance of its duties and responsibilities, and on terms it may deem appropriate, with any agency or instrumentality of the United States, or with any state, territory, or possession, or with any subdivision thereof, or with any person, firm, association, or corporation; provided that the transaction furthers the public interest;
- (4) Entering into business relationships, including but not limited to:
  - (A) Creating nonprofit corporations;



- (B) Establishing, subscribing to, and owning stock in for-profit corporations individually or jointly with others; and
- (C) Entering into partnerships and other joint venture arrangements;
  - provided that the relationship furthers the public interest;
- (5) Participating in prepaid health care service and insurance programs and other alternative health care delivery programs;
- (6) Setting rates and charges for all services provided in each public health facility and establishing operating and capital improvement budgets;
- (7) Developing a hospital personnel system;
- (8) Acquiring in any lawful manner any property, real, personal, or mixed, tangible or intangible, or any interest therein; holding, maintaining, using, and operating the same; and selling, leasing, or otherwise disposing of the same at any time, in any manner, and to the extent deemed necessary or appropriate to carry out its purposes;
- (9) Determining the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to laws specifically applicable to the agency;
- (10) Executing in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers;
- (11) Issuing revenue bonds; and
- (12) Taking any actions that may be necessary or appropriate to carry out the powers conferred upon it by law and as required by this Act.

(b) The task force shall consider and evaluate the establishment of a board of directors and local community boards to oversee the operations of the agency for community hospitals. The task force shall consider the roles of the board of directors and local community boards, vesting the local community boards with as much authority over their local public health facilities as possible.

(c) The task force shall evaluate the provisions of the division of community hospitals' pilot autonomy project and its authorizations, and develop means to integrate the project into the agency for community hospitals.

(d) With the governor's approval, the task force may engage a consultant knowledgeable in health care to assist in its efforts.

SECTION 4. The Governor, the task force and any consultant engaged to assist the task force, the task force members, including the representatives of the departments of health, budget and finance, personnel services, accounting and general services, attorney general, the designated collective bargaining representatives of employees in bargaining units (1), (2), (3), (4), (9), (10), and (13), representatives from the hospital industry, representatives from health maintenance organizations, and community members from each county, the management team, the director of health, the deputy director for community hospitals, and the division of community hospitals' management advisory committee county chairs, shall cooperate fully with any review of all participating community hospitals granted autonomy in the autonomy pilot project carried out by the auditor, should such a review be required by law.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval and shall be repealed on June 30, 1996.

(Approved July 1, 1994.)

Note

1. So in original.

ACT 267

H.B. NO. 2640

A Bill for an Act Relating to Hazardous Waste Brokers.

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

SECTION 1. The legislature finds that Hawaii's energy resources and physical environment must be managed and protected in a manner that ensures the health, safety, and welfare of the citizens of the State and preserves our limited natural resources for future generations. The 1993 energy and environmental summit was convened by the legislature on October 8, 1993, to identify issues and build broad-based support for initiatives that will move Hawaii forward in the areas of energy and the environment. This Act is the result of the collaborative efforts of the participants of the summit.

SECTION 2. Chapter 342J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§342J- Brokers; notification; and identification numbers.** (a) Not later than forty-five days after the effective date of this section, any person who acts as a hazardous waste broker, with respect to any substance listed as hazardous waste or identified by its characteristics as hazardous waste under 40 C.F.R. Part 261, shall apply to the department for an identification number and shall file with the department a notification stating the location and general description of the hazardous waste handling activity of the broker. The initial notification from the broker shall include a notarized written statement from the owner, or owner's agent, of the facility or land to be used by the broker for hazardous waste handling activity acknowledging the hazardous waste handling activity of the broker.

(b) Not later than forty-five days after the adoption of any rule pursuant to this chapter that lists or identifies by characteristics any substance as hazardous waste, any person who acts as a hazardous waste broker with respect to such substance shall apply to the department for an identification number and shall file with the department a notification stating the location and general description of the hazardous waste handling activity of the broker. The initial notification from the broker shall include a notarized written statement from the owner, or owner's agent, of the facility or land to be used by the broker for hazardous waste handling activity acknowledging the hazardous waste handling activity of the broker. This subsection shall not apply to activities or hazardous waste as to which notification has been made in compliance with subsection (a).

(c) Each hazardous waste broker shall be issued only one identification number.

(d) Any person required by this section to provide notification to the department shall advise the department, by January 31 of each year following initial notification, of the following information, including any which may have changed during the prior year:

- (1) Location of business;
- (2) Name of business;
- (3) Mailing address;
- (4) Name of person who operates the facility at which hazardous waste is handled;
- (5) Name of owner of the facility at which hazardous waste is handled;
- (6) Name of owner of land at which hazardous waste is handled; and
- (7) A notarized written statement from the facility owner, or owner's agent, of the facility or land to be used by the broker for hazardous waste handling activity acknowledging the hazardous waste handling activity of the broker.

(e) This section shall not apply to owners or operators of hazardous waste treatment, storage, or disposal facilities.”

SECTION 3. Section 342J- ,<sup>1</sup> Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Hazardous waste broker” means any person who:

- (1) Acts as an intermediary between:
  - (A) A generator and a transporter; or
  - (B) A generator and a person who treats, stores, or disposes of hazardous waste; or
  - (C) A generator and another broker;
- and
- (2) Performs one or more of the following:
  - (A) Mixes hazardous wastes of different U.S. Department of Transportation shipping descriptions by placing them into a single container or tank as defined in 40 C.F.R. Part 260 (provided that a broker who mixes hazardous waste must comply with all statutory and regulatory provisions applicable to generators);
  - (B) Packages or repackages hazardous waste;
  - (C) Labels, marks, or manifests hazardous waste;
  - (D) Performs waste characterization of hazardous waste; or
  - (E) Arranges the storage, treatment, transportation, disposal, or recycling of hazardous waste for a fee based upon the completion of the transaction.”

SECTION 4. New statutory material is underscored.<sup>2</sup>

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

(Approved July 1, 1994.)

Notes

- 1. So in original.
- 2. Edited pursuant to HRS §23G-16.5.

## ACT 268

H.B. NO. 2641

A Bill for an Act Relating to Air Pollution Control.

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

SECTION 1. Section 342B-12, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342B-12]]~~ **Specific powers of the director.** The director may:

- (1) Establish ambient air quality standards for the State as a whole or for any part thereof;
- (2) Establish and administer any permit program;
- (3) Establish by rule the control of open burning, fugitive dust, and visible emissions;
- (4) Establish by rule the control of vehicular smoke emission and require the installation, use, and proper operation and maintenance of air pollution control equipment for motor vehicles;
- (5) Establish and administer a program of inspection and testing of all modes of transportation except aircraft, to enforce compliance with applicable emission limitations when necessary and practicable, and to control or limit the operation of motor vehicular and other modes of transportation when the director finds pursuant to standards established by rules such modes of transportation are producing or pose an immediate danger of producing unacceptable levels of air pollution or when such control is necessary to meet applicable ambient air quality standards;
- (6) Establish by rule other specific areas for control of air pollution, thereby allowing for varying conditions;
- (7) Establish standards of performance or rules for existing, new, or modified stationary sources or adopt standards of performance for existing, new, or modified stationary sources as promulgated by the administrator;
- (8) Establish maximum achievable control technology standards or rules for the control of hazardous air pollutants from existing, new, or modified sources or adopt maximum achievable control technology as promulgated by the administrator; [and]
- (9) Establish rules for the prevention of significant deterioration of air quality or adopt prevention of significant deterioration regulations as promulgated by the administrator[.]; and
- (10) Establish rules allowing for environmental permit shields.”

SECTION 2. Section 342B-21, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342B-21]]~~ **Specific functions, duties, and powers of the director.**

The director shall have the functions, duties, and power to:

- (1) Issue permits for a fixed term not to exceed five years;
- (2) [Assure] Ensure compliance by all sources required to have a permit with each applicable standard, regulation, or requirement provided by federal or state statutes or rules;

- (3) [Assure] Ensure that, upon issuance or renewal, permits incorporate emission limitations and other requirements in an applicable state implementation plan;
- (4) Terminate, modify, or revoke and reissue permits for cause;
- (5) Enforce permits, permit fee requirements, and the requirement to obtain a permit including the recovery of civil penalties; [and]
- (6) [Assure] Ensure that permits in effect during the establishment and implementation of this new permit program will continue in effect until the permittee has applied for and obtained a permit under the new program[.]; and
- (7) Issue permits with environmental permit shields pursuant to such rules as the director may adopt.”

SECTION 3. Section 342B-33, Hawaii Revised Statutes, is amended to read as follows:

“[[§342B-33]] **Minimum permit conditions.** At a minimum, each permit shall require the permittee to:

- (1) Submit to the director, no less than every six months, the results of any required monitoring and, no less than annually, a compliance certification; and
- (2) Disclose the annual emissions of hazardous air pollutants.”

SECTION 4. Section 342B-48, Hawaii Revised Statutes, is amended to read as follows:

“[[§342B-48]] **Administrative penalties.** (a) In addition to any other administrative or judicial remedy provided by this chapter, or by rules adopted pursuant to this chapter, the director is authorized to impose by order the penalties specified in section 342B-47.

(b) Factors to be considered in imposing an administrative penalty include:

- (1) [the] The nature and history of the violation and of any prior violations[.];
- (2) The economic benefit to the violator, or anticipated by the violator, resulting from the violation;
- (3) [and the] The opportunity, difficulty, and history of corrective action[.];
- (4) Good faith efforts to comply; and
- (5) Such other matters as justice may require.

(c) It is presumed that the violator’s economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary is on the violator.

(d) In any judicial proceeding to recover the administrative penalty imposed, the director need only show that:

- (1) Notice was given;
- (2) A hearing was held or the time granted for requesting a hearing has run without such a request;
- (3) The administrative penalty was imposed; and
- (4) The penalty remains unpaid.”

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

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

(Approved July 1, 1994.)

## ACT 269

H.B. NO. 2642

A Bill for an Act Relating to Water Pollution.

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

SECTION 1. The legislature finds that Hawaii's energy resources and physical environment must be managed and protected in a manner that ensures the health, safety, and welfare of the citizens of the State and preserves our limited natural resources for future generations. The 1993 Energy and Environmental Summit was convened by the legislature on October 8, 1993, to identify issues and build broad-based support for initiatives that will move Hawaii forward in the areas of energy and the environment. This Act is the result of the collaborative efforts of the participants of the Summit.

SECTION 2. Section 342D-31, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§342D-31~~]]~~ **Administrative penalties.** (a) In addition to any other administrative or judicial remedy provided by this chapter, or by rules adopted under this chapter, the director is authorized to impose by order the penalties specified in section 342D-30.

(b) Factors to be considered in imposing an administrative penalty include:

- (1) ~~[the]~~ The nature and history of the violation and of any prior violations[.];
- (2) The economic benefit to the violator, or anticipated by the violator, resulting from the violation;
- (3) ~~[and the]~~ The opportunity, difficulty, and history of corrective action[.];
- (4) Good faith efforts to comply; and
- (5) Such other matters as justice may require.

(c) It is presumed that the violator's economic and financial conditions allow payment of the penalty, and the burden of proof to the contrary is on the violator.

(d) In any judicial proceeding to recover the ~~[civil]~~ administrative penalty imposed, the director need only show that:

- (1) ~~[notice]~~ Notice was given[.];
- (2) ~~[a]~~ A hearing was held or the time granted for requesting a hearing has run without such a request[.];
- (3) ~~[the civil]~~ The administrative penalty was imposed[.]; and
- (4) ~~[that the]~~ The penalty remains unpaid.”

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

SECTION 4. This Act shall take effect upon approval.

(Approved July 1, 1994.)

A Bill for an Act Relating to the Conservation District.

*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  
CONSERVATION DISTRICT**

§ **-1 Findings and purpose.** The legislature finds that lands within the state land use conservation district contain important natural resources essential to the preservation of the State’s fragile natural ecosystems and the sustainability of the State’s water supply. It is therefore, the intent of the legislature to conserve, protect, and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

§ **-2 Definitions.** As used in this chapter, unless the context otherwise requires:

“Board” means the board of land and natural resources.

“Chairperson” means the chairperson of the board of land and natural resources.

“Conservation district” means those lands within the various counties of the State bounded by the conservation district line, as established under provisions of Act 187, Session Laws of Hawaii 1961, and Act 205, Session Laws of Hawaii 1963, or future amendments thereto.

“Department” means the department of land and natural resources.

“Kuleana” means those lands granted to native tenants pursuant to L. 1850, p. 202 entitled “An Act Conforming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges,” as originally enacted and as amended.

“Land”, means all real property, fast or submerged, and all interests therein, including fauna, flora, minerals, and all such natural resources, unless otherwise expressly provided.

“Landowner” means an owner of land or any estate or interest in that land.

“Land use” means:

- (1) The placement or erection of any solid material on land;
- (2) The grading, removing, harvesting, dredging, mining, or extraction of any material or natural resource on land;
- (3) The subdivision of land; or
- (4) The construction, reconstruction, demolition, or alteration of any structure, building, or facility on land.

“Nonconforming” use means the lawful use of any building, premises or land for any trade, industry, residence or other purposes which is the same as and no greater than that established prior to October 1, 1964, or prior to the inclusion of the building, premises, or land within the conservation district.

§ **-3 Powers and duties of the board and department.** The board and department shall:

- (1) Maintain an accurate inventory of lands classified within the state conservation district by the state land use commission, pursuant to chapter 205;
- (2) Identify and appropriately zone those lands classified within the conservation district;
- (3) Adopt rules, in compliance with chapter 91 which shall have the force and effect of law;
- (4) Set, charge, and collect reasonable fees in an amount sufficient to defray the cost of processing applications for zoning, use, and subdivision of conservation lands;
- (5) Establish categories of uses or activities on conservation lands, including allowable uses or activities for which no permit shall be required;
- (6) Establish restrictions, requirements, and conditions consistent with the standards set forth in this chapter on the use of conservation lands; and
- (7) Establish and enforce land use regulations on conservation district lands including the collection of fines for violations of land use and terms and conditions of permits issued by the department.

§ **-4 Zoning; amendments.** (a) The department, after notice and hearing as provided in this section, shall review and redefine the boundaries of the zones within the conservation district.

(b) The department shall adopt rules governing the use of land within the boundaries of the conservation district that are consistent with the conservation of necessary forest growth, the conservation and development of land and natural resources adequate for present and future needs, and the conservation and preservation of open space areas for public use and enjoyment. No use except a non-conforming use as defined in section -5, shall be made within the conservation district unless the use is in accordance with a zoning rule.

(c) The department may allow a temporary variance from zoned use where good cause is shown and where the proposed temporary variance is for a use determined by the department to be in accordance with good conservation practices.

(d) The department shall establish zones within the conservation district, which shall be restricted to certain uses. The department, by rules, may specify the land uses permitted therein which may include, but are not limited to, farming, flower gardening, operation of nurseries or orchards, growth of commercial timber, grazing, recreational or hunting pursuits, or residential use. The rules may control the extent, manner, and times of the uses, and may specifically prohibit unlimited cutting of forest growth, soil mining, or other activities detrimental to good conservation practices.

(e) Whenever any landowner or government agency whose property will be directly affected makes an application to change the boundaries or land uses of any zone, or to establish a zone with certain land uses, or where the department proposes to make the change or changes itself, the change or changes shall be put in the form of a proposed rule by the applicant and the department shall then give notice by publication at least three times in three successive weeks in a newspaper of general circulation in the State and in the county in which the property is located. The notice shall be given not less than thirty days prior to the date set for the hearing, and shall state the time and place of the hearing and the changes proposed. Any proposed rules and the necessary maps shall be made available for inspection by interested members of the public. The hearing shall be held in the



county in which the land is located and may be delegated to an agent or representative of the board as may otherwise be provided by law and in accordance with rules adopted by the board. For the purpose of its public hearing or hearings, the board shall have the power to summon witnesses, administer oaths, and require the giving of testimony.

§ -5 **Nonconforming uses.** Neither this chapter nor any rules adopted hereunder shall prohibit the continuance of the lawful use of any building, premises, or land for any trade, industrial, residential, or other purpose for which the building premises, or land was used on October 1, 1964, or at the time any rule adopted under authority of this part takes effect. All such existing uses shall be nonconforming uses. Any land identified as a kuleana may be put to those uses which were historically, customarily, and actually found on the particular lot including, if applicable, the construction of a single family residence. Any structures may be subject to conditions to ensure they are consistent with the surrounding environment.

§ -6 **Permits and site plan approvals.** (a) The department shall regulate land use in the conservation district by the issuance of permits.

(b) The department shall render a decision on a completed application for a permit within one-hundred-eighty days of its acceptance by the department. If within one-hundred-eighty days after acceptance of a completed application for a permit, the department shall fail to give notice, hold a hearing, and render a decision, the owner may automatically put the owner's land to the use or uses requested in the owner's application. When an environmental impact statement is required pursuant to chapter 343, or when a contested case hearing is requested pursuant to chapter 91, the one-hundred-eighty days may be extended to an additional ninety days at the request of the applicant. Any request for additional extensions shall be subject to the approval of the board.

(c) The department shall hold a public hearing in every case involving the proposed use of land for commercial purposes, at which hearing interested persons shall be afforded a reasonable opportunity to be heard. Notice of the time and place of the hearing shall be published at least once in a newspaper of general circulation in the State and in the county in which the property is located. The notice shall be given not less than twenty days prior to the date set for the hearing. The hearing shall be held in the county in which the land is located and may be delegated to an agent or representative of the board as may otherwise be provided by law and in accordance with rules adopted by the board. For the purposes of its public hearing or hearings, the department shall have the power to summon witnesses, administer oaths, and require the giving of testimony. As used in this paragraph, the term "commercial purposes" shall not include the use of land for utility purposes.

(d) The department shall regulate the construction, reconstruction, demolition, or alteration of any structure, building, or facility by the issuance of site plan approvals.

§ -7 **Penalty for violation.** (a) The department shall prescribe administrative procedures as it deems necessary for the enforcement of this chapter and any zoning rule adopted in accordance therewith. These rules may be enforced by court order at the suit of the department or of the owner or owners of real estate directly affected by the rules. The provisions of section 607-25 shall apply to this chapter.

(b) Any person violating this chapter or any rule adopted in accordance with this chapter shall be fined not more than \$2,000 in addition to administrative costs and damages to state land. After written notification from the department, wilful violation of this section may incur an additional fine of up to \$2,000 per day for each day in which the violation persists.

§ **-8 Zoning order; appeal to circuit court.** Any final order of the department based upon this part may be appealed to the circuit court of the circuit in which the land in question is found. The appeal shall be in accord with chapter 91 and the Hawaii Rules of Civil Procedure.”

SECTION 2. Section 205-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as herein provided, the powers granted to counties under section 46-4 shall govern the zoning within the districts, other than in conservation districts. Conservation districts shall be governed by the department of land and natural resources pursuant to [section 183-41] chapter \_\_\_\_\_.”

SECTION 3. Section 183-41, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 183-43, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

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

(Approved July 1, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 271**

H.B. NO. 3446

A Bill for an Act Relating to Subsistence Fishing.

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

SECTION 1. Chapter 188, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§188-     **Designation of community based subsistence fishing area.**

(a) The department of land and natural resources may designate community based subsistence fishing areas and carry out fishery management strategies for such areas, through administrative rules adopted pursuant to chapter 91, for the purpose of reaffirming and protecting fishing practices customarily and traditionally exercised for purposes of native Hawaiian subsistence, culture, and religion.

(b) Proposals may be submitted to the department of land and natural resources for the department’s consideration. The proposal shall include:

(1) The name of the organization or group submitting the proposal;

- (2) The charter of the organization or group;
- (3) A list of the members of the organization or group;
- (4) A description of the location and boundaries of the marine waters and submerged lands proposed for designation;
- (5) Justification for the proposed designation including the extent to which the proposed activities in the fishing area may interfere with the use of the marine waters for navigation, fishing, and public recreation; and
- (6) A management plan containing a description of the specific activities to be conducted in the fishing area, evaluation and monitoring processes, methods of funding and enforcement, and other information necessary to advance the proposal.

Proposals shall meet community based subsistence needs and judicious fishery conservation and management practices.

(c) For the purposes of this section:

- (1) "Native Hawaiian" means any descendant of the races inhabiting the Hawaiian islands prior to 1778; and
- (2) "Subsistence" means the customary and traditional native Hawaiian uses of renewable ocean resources for direct personal or family consumption or sharing.

SECTION 2. The department shall establish a subsistence fishing pilot demonstration project for the fisheries adjacent to the coastline between Nihoa Flats on the east to Ilio Point on the west on the island of Molokai. The department of land and natural resources shall adopt rules pursuant to chapter 91 to delineate the offshore boundaries of the project area. In implementing this project, the department:

- (1) Shall protect and allow the continuation of all existing commercial fishing activities in the project area;
- (2) May allow non-native Hawaiians to continue existing recreational fishing activities;
- (3) Shall adopt rules pursuant to chapter 91 to implement the purpose and intent of this project by June 30, 1995; and
- (4) Shall file a status report on this pilot project no later than twenty days prior to the convening of the Regular Session of 1997.

SECTION 3. The pilot project shall cease to function on July 1, 1997.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval; provided that the pilot project shall not take effect until the department of land and natural resources adopts rules for the pilot project.

(Approved July 1, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 272

H.B. NO. 3657

A Bill for an Act Relating to Education.

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

SECTION 1. The legislature finds that reforming Hawaii's public education system is no easy task. For years, the board of education, the department of education, and the legislature have struggled to effect changes to the public education system to ensure the delivery of meaningful educational services and improve student achievement. While many of those efforts have resulted in bold and innovative initiatives such as school/community-based management (SCBM), progress in realizing school empowerment has been slow, as decision-makers have been too immersed in differences on conceptual and jurisdictional issues. It is clear, however, that all stakeholders agree that the focus must be on school empowerment and that any meaningful reform will require restructuring from the bottom up with emphasis on the individual school as the basic management unit of the educational system. Students must be the focal point and government agencies the supporting framework for the schools. Schools must be empowered by providing the necessary authority, resources, and flexibility so that the school's primary focus is on delivering instructional services.

Systemic reform cannot and will not be achieved overnight. Hawaii's top-down, tri-level school management system has been in place for decades. It is a statewide system that encompasses school districts and school complexes within districts that are distinctly different and are progressing at varied speeds toward SCBM. Restructuring must be viewed as a gradual process with changes occurring on a continuum culminating with schools fully functioning as independent learning units.

To set the reform effort in motion, this Act provides for two constitutional amendments to address the continuing debate on educational governance regarding the roles of the board of education and the superintendent of education. The first amendment will allow the people to decide whether the public schools should be governed by an elected or appointed board of education. The second amendment will propose changing the board of education's role to a statewide educational policy-making body which appoints the superintendent of education as the chief executive office of the public school system. The legislature believes that ratification of these amendments will provide a clear public mandate, the clout that is necessary to proceed.

This Act then directs the department of education to commence restructuring and provides for the downsizing of the state and district offices and curriculum decision-making at the school level. It is the intent of the legislature that this restructuring effort shall be undertaken within existing resources and will allow for greater administrative support to the schools. Additionally, a restructuring commission is established to assist the department in addressing implementation issues and to monitor the department's progress in deployment of personnel and reallocation of resources. The commission will also develop transitional plans for the transfer of other education-related functions currently administered by other state agencies. The legislature believes the restructuring commission's composition and duties are in line with and will enable the State to receive federal funds from the Goals 2000: Educate America Act recently adopted by the U.S. Congress and signed into law by the President.

The current budget format of the public education system has obscured funding decisions concerning individual schools. Under this structure, the division of funds among the schools has been an administrative process, outside of public view and beyond public control. Funds are dissipated in a burgeoning administrative bureaucracy, and there is no clear accounting of how much money actually reaches the schools for instruction and activities that directly affect students and learning. As the movement to decentralize takes hold, the state and district offices need to change from its managerial role to one that supports, facilitates, and monitors school level activities. The schools must assume control of personnel and fiscal resources to determine the curriculum and instructional needs of their students. Through this Act, the roles and responsibilities of the board of education, the department of education, and the school principals are more clearly defined. The board of education is entrusted with developing statewide educational policy for our public school system. The superintendent of education and the department of education are responsible for the administrative functions of the public school system, and the school principals are responsible for developing and providing instructional services at the schools. Increased control of resources is also provided through extending budget flexibility provisions such as carry-over of unexpended funds and creation of temporary positions, and a new provision directing the reallocation of resources from the state and district offices to the school-level is aimed at providing even greater support for our schools.

Finally, this Act builds upon the legislature's past systemic reform efforts, such as SCBM, that enable schools to become more autonomous and, in turn, directly responsible for educational outcomes. For schools which have successfully implemented school/community-based management and seek further autonomy, this Act allows school staff and parents in collaboration to establish student-centered schools as individual learning units within the public school system.

## **PART I. APPOINTED BOARD OF EDUCATION**

SECTION 2. Article X, section 2, of the Constitution of the State of Hawaii is amended to read as follows:

### **“BOARD OF EDUCATION**

**Section 2.** There shall be a board of education composed of members who shall be [elected in a nonpartisan manner by qualified voters, as provided by law,] appointed by the governor and confirmed by the senate, as provided by law. [from two at-large school board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district.] The Hawaii State Student Council shall select a public high school student to serve as a nonvoting member on the board of education.”

SECTION 3. The question to be printed on the ballot shall be as follows:

“Shall the board of education be appointed by the governor and confirmed by the senate, and its composition determined by law?”

SECTION 4. Section 11-157, Hawaii Revised Statutes, is amended to read as follows:

**“§11-157 In case of tie.** In case of the failure of an election by reason of the equality of vote between two or more candidates, the tie shall be decided by the chief election officer or county clerk in the case of county elections in accordance with the following procedure:

- (1) In the case of an election involving a seat for the senate, house of representatives, [board of education,] or county council where only voters within a specified district are allowed to cast a vote, the winner shall be declared as follows:
  - (A) For each precinct in the affected district, an election rate point shall be calculated by dividing the total number of registered voters in that precinct by the total number of registered voters in the district. For the purpose of this subparagraph, the absentee votes cast for the affected district shall be treated as a precinct. The election rate point shall be calculated by dividing the total absentee votes cast for the affected district by the total number of registered voters in that district. All election rate points shall be expressed as decimal fractions rounded to the nearest hundred thousandth.
  - (B) The candidate with the highest number of votes in a precinct shall be allocated the election rate point calculated under subparagraph (A) for that precinct. In the event that two or more persons are tied in receiving the highest number of votes for that precinct, the election rate point shall be equally apportioned among those candidates involved in that precinct tie.
  - (C) After the election rate points calculated under subparagraph (A) for all the precincts have been allocated as provided in subparagraph (B), the election rate points allocated to each candidate shall be tallied and the candidate with the highest election rate point total shall be declared the winner.
  - (D) If there is a tie between two or more candidates in the election rate point total, the candidate who is allocated the highest election rate points from the greatest number of precincts shall be declared the winner.
- (2) In the case of an election involving a federal office or an elective office where the voters in the entire State or in an entire county are allowed to cast a vote, the winner shall be declared as follows:
  - (A) For each representative district in the State or county, as the case may be, an election rate point shall be calculated by dividing the total number of registered voters in that representative district by the total number of registered voters in the State, county<sup>1</sup> or federal office district, as the case may be; provided that for purposes of this subparagraph:
    - (i) The absentee votes cast for a statewide, countywide, or federal office shall be treated as a separate representative district and the election rate point shall be calculated by dividing the total absentee votes cast for the statewide, countywide, or federal office by the total number of registered voters in the State, county, or federal office district, as the case may be.

- (ii) The overseas votes cast for any election in the State for a federal office shall be treated as a separate representative district and the election rate point shall be calculated by dividing the total number of overseas votes cast for the affected federal office by the total number of registered voters in the affected federal office district. The term "overseas votes" means those votes cast by absentee ballots for a presidential election as provided in section 15-3.

All election rate points shall be expressed as decimal fractions rounded to the nearest hundred thousandth.

- (B) The candidate with the highest number of votes in a representative district shall be allocated the election rate point calculated under subparagraph (A) for that district. In the event that two or more persons are tied in receiving the highest number of votes for that district, the election rate point shall be equally apportioned among those candidates involved in that district tie.
- (C) After the election rate points calculated under subparagraph (A) for all the precincts have been allocated as prescribed in<sup>1</sup> subparagraph (B), the election rate points allocated to each candidate shall be tallied and the candidate with the highest<sup>1</sup> election rate point total shall be declared the winner.
- (D) If there is a tie between two or more candidates in the election rate point total, the candidate who is allocated the highest election rate points from the greatest number of<sup>1</sup> districts shall be declared the winner."

SECTION 5. Section 11-205, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No political party shall make contributions to a candidate in any calendar year in an aggregate amount greater than the following percentages of the expenditure limit for each respective office:

- (1) For the office of governor — twenty per cent of the expenditure limit;
- (2) For the office of lieutenant governor — twenty per cent of the expenditure limit;
- (3) For the offices of mayor and prosecuting attorney — twenty per cent of the expenditure limit;
- (4) For the offices of state senator and county council member — thirty per cent of the expenditure limit;
- (5) For the office of state representative — forty per cent of the expenditure limit; and
- (6) For [the offices of the board of education and] all other offices — forty per cent of the expenditure limit."

SECTION 6. Section 11-209, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) From January 1 of the year of a primary, special primary, special, or general election through the day of the special or general election, the total

expenditures for candidates who voluntarily agree to limit their campaign expenditures, inclusive of all expenditures made or authorized by the candidate alone and all campaign treasurers and committees in the candidate's behalf, shall not exceed the following amounts expressed respectively multiplied by the number of voters in the last preceding general election registered to vote in each respective voting district:

- (1) For the office of governor — \$1.25;
- (2) For the office of lieutenant governor — 70 cents;
- (3) For the office of mayor — \$1;
- (4) For the offices of state senator, state representative, county council member, and prosecuting attorney — 70 cents; and
- (5) For [the offices of the board of education and] all other offices — 10 cents."

SECTION 7. Section 11-218, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) For the office of state senator, state representative, county council member, prosecuting attorney, [board of education,] and all other offices, the maximum amount of public funds available to a candidate shall not exceed \$100 in any election year."

SECTION 8. Section 11-221, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The maximum amount of public funds available to candidates for the office of state senator, state representative, county council member, prosecuting attorney, [board of education,] and all other offices shall not exceed \$50 for any primary, special primary, or general election."

SECTION 9. Section 12-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Nomination papers for candidates for members of Congress, governor, and lieutenant governor[, and the board of education] shall be signed by not less than twenty-five registered voters of the State or of the Congressional district [or school board district] from which the candidates are running in the case of candidates for the United States House of Representatives[ or for the board of education]."

SECTION 10. Section 21F-8, Hawaii Revised Statutes, is amended to read as follows:

"**[§21F-8] Agencies to cooperate.** All departments, agencies, and education institutions of the executive and judicial branches, the office of Hawaiian affairs, and the University of Hawaii shall comply with requests of the office of the legislative analyst for information, data, estimates, and statistics on the funding, revenue, operations, and other affairs of the department, agency, education institution, the office of Hawaiian affairs, or University of Hawaii. The comptroller,<sup>1</sup> director of finance, the director of taxation, the administrative director of the courts, the administrator of the office of Hawaiian affairs, the board of education and the superintendent of education, and the president of the University



of Hawaii shall provide the office of the legislative analyst with full and free access to information, data, estimates, and statistics in the possession of their respective departments on the state budget, revenue, expenditures, and tax revenue and expenditures.”

SECTION 11. Section 88-21, Hawaii Revised Statutes, is amended by amending the definition of “elective officers, elective officials” to read as follows:

““Elective officers, elective officials”: any person elected to a public office, except as a delegate to a constitutional convention[, a member of the board of education] or trustee of the office of Hawaiian affairs, in accordance with an election duly held in the State or counties under chapter 11[;] or appointed as a member of the board of education; provided that the person receives compensation, pay, or salary for such office.”

SECTION 12. Chapter 13, Hawaii Revised Statutes, is repealed.

SECTION 13. Section 17-6, Hawaii Revised Statutes, is repealed.

SECTION 14. Section 296-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be a principal executive department to be known as the department of education which shall be headed by an [elected] executive appointed board to be known as the board of education. The board shall have power in accordance with law to formulate policy and to exercise control over the public school system through its executive officer, the superintendent of education[,] and to establish plans, procedures, processes, and standards of accountability for budgetary implementation in a manner consistent with general law. The board shall consist of fifteen members to be appointed as follows:

- (1) Each school advisory council shall submit a list of three nominees who are residents of the council’s geographic region and the governor shall select one member from each such list to serve a two-year term;
- (2) The governor shall appoint the remaining eight members, for four-year terms, with at least one member from each of the following school/community-based management participant groups:
  - (A) One parent of a public school student;
  - (B) One representative of the community;
  - (C) One teacher/instructional staff member of a public school;
  - (D) One school administrator of a public school;
  - (E) One support staff member of a public school; and
  - (F) One at-large member;

and

- (3) One student to be appointed by the state student council.

A vacancy occurring in the membership of the board during a term shall be filled for the unexpired term thereof, subject to Article V, section 6, of the Constitution of the State; provided that the governor shall appoint a member from the same category as the member being replaced. No person shall be appointed consecutively to more than two terms as a member of the same board.”

**PART II. POLICY-MAKING BOARD OF EDUCATION**

SECTION 15. Article X, section 3, of the Constitution of the State of Hawaii is amended to read as follows:

**“POWER OF THE BOARD OF EDUCATION**

**Section 3.** The board of education shall have the power, as provided by law, to formulate statewide educational policy [and to exercise control over the public school system through its executive officer, the superintendent of education, who shall be appointed by the board; except that the board shall have jurisdiction over the internal organization and management of the public school system, as provided by law, and shall exercise its jurisdiction in a manner consistent with general laws.] and appoint the superintendent of education as the chief executive officer of the public school system.”

SECTION 16. The question to be printed on the ballot shall be as follows:

“Shall the board of education’s powers be limited to formulating statewide educational policy, as provided by law, and appointing the superintendent of education as the chief executive officer?”

SECTION 17. Section 296-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be a principal executive department to be known as the department of education which shall be headed by an elected [executive] policy-making board to be known as the board of education. The board shall have power in accordance with law to formulate statewide educational policy, adopt student performance standards and assessment models, monitor school success, and to [exercise control over the public school system through its executive officer,] appoint the superintendent of education[.] as the chief executive officer of the public school system.”

SECTION 18. Section 296-11, Hawaii Revised Statutes, is amended to read as follows:

**“§296-11 Duties of superintendent.** (a) Under policies established by the board [of education], the superintendent of education shall be designated as the chief executive officer of the public school system having jurisdiction over the internal organization, operation, and management of the public school system, as provided by law; and shall administer programs of education and public instruction throughout the State, including education at the preschool, primary, and secondary school levels, [health education and instruction,] and such other programs as may be established by law.

(b) Except as otherwise provided, the superintendent shall sign all drafts for the payment of moneys, all commissions and appointments, all deeds, official acts, or other documents of the department. The superintendent may use a printed facsimile signature in approving appointments, contracts, and other documents. The superintendent shall, at such time as may be prescribed by the board, present to the board full annual reports of the principal transactions within the department during the last completed year, which reports together with such recommendations as the board may think proper, shall be presented to the governor and the legislature.”

**PART III. DEPARTMENT RESTRUCTURING**

SECTION 19. Chapter 296, Hawaii Revised Statutes, is amended by amending the chapter title to read as follows:

**“CHAPTER 296  
[DEPARTMENT OF EDUCATION]  
PUBLIC EDUCATION”**

SECTION 20. Chapter 296, Hawaii Revised Statutes, is amended by adding seven new sections to be appropriately designated and to read as follows:

**“§296- Department of education; statewide and regional administrative services.** The department of education shall serve as the central support system responsible for the overall administration of statewide educational policy, interpretation and development of standards for compliance with state and federal laws, and coordination and preparation of a systemwide budget for the public schools. The department may establish regional administrative units to provide administrative support to the schools for personnel, fiscal, and procurement services. The regional administrative units may also be assigned responsibility for the administration and operation of special education programs and special schools.

**§296- Principal; authority and responsibility.** The role of the principal shall include but not be limited to overseeing the day-to-day management of the school, the primary function of which is to develop and deliver instructional services to students in accordance with statewide educational policy and standards. The principal shall ensure that the curriculum facilitates the achievement of the statewide student performance standards adopted for the public school system.

**§296- Learning support centers.** (a) For the purposes of this part, “school complex” means a grouping of schools established by the department of education for instructional, administrative, and organizational purposes; and “regional administrative unit” means a grouping of complexes established by the department for administrative support and organizational purposes.

(b) Beginning with the 1995-1996 school year and until June 30, 1999, school level support for curriculum and instruction shall be provided through learning support centers to be governed by schools within each complex. The centers shall assist school personnel in the delivery of instructional services by providing support through curriculum development, student assessment, staff development, and resource allocation. The types of services offered and the manner in which such services are provided by the centers, as well as the prioritization and allocation of available resources shall be determined by policies established by each complex. Any regional administrative units established by the department shall be assigned all administrative functions and provide administrative support to the learning support centers.

**§296- School system financial structure.** (a) 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:

“Administrative expenses” means those state, district, or other regional administrative unit expenditures pertaining to:

- (1) Business services;
- (2) Personnel services;
- (3) Compliance with laws and rules;
- (4) Facilities planning;
- (5) Telecommunications and information system services;
- (6) Planning and evaluation;
- (7) Communications and public relations;
- (8) Administration of state, regional, and district offices; and
- (9) Other state, district, and regional functions.

“Instructional expenses” means those expenses pertaining to:

- (1) The operation and maintenance of school facilities;
- (2) School instructional personnel;
- (3) School food services;
- (4) School-based health services;
- (5) After-school care;
- (6) Learning support centers;
- (7) Curriculum development;
- (8) Training of instructional personnel and non-instructional school staff;
- (9) Diagnostic services;
- (10) School administration;
- (11) School safety and security services; and
- (12) Other such expenses incurred in the delivery of instruction at the school and complex level.

(b) Beginning with the 1995-1997 fiscal biennium, the department’s operating budget for the public school system shall separate administrative from instructional expenses and shall be submitted to the governor pursuant to chapter 37; provided that the department’s administrative expenditures shall not exceed 6.5 per cent of the total department operating budget unless approved by the legislature.

(c) The department shall not transfer any funds from instructional expenditure categories for administrative expenditures, except for unforeseeable circumstances that pose a threat to the health and safety of personnel and students, and subject to approval by the governor and notification to the legislature.

**§296- School-based budget flexibility.** For the purposes of this section, “school-based budget flexibility” means an operating budget preparation and allocation process which shall provide maximum flexibility to individual schools, complexes, and learning support centers in the preparation and execution of their operating budgets. Beginning with the 1995-1997 fiscal biennium, the department shall implement school-based budget flexibility for schools, complexes, and learning support centers.

**§296- Statewide performance standards.** (a) The board of education shall establish statewide performance standards and the means to assess the standards based upon the recommendations in the final report of the performance standards commission established pursuant to Act 334, Session Laws of Hawaii 1991; provided that the board may review and modify the performance standards, as the board deems necessary, to reflect the needs of public school students and educational goals adopted by the board.

(b) The board shall submit to the legislature, twenty days prior to the convening of the regular session of 1995, a report which contains the performance standards and a plan for their implementation at both the state and school levels.

(c) The board shall appoint a performance standards review commission, to be convened at the beginning of the 1997-1998 school year, and every four years thereafter, to assess the effectiveness of the performance standards. The commission shall include representatives of the Hawaii state parent, teacher, student association; the Hawaii state student council; the superintendent of education; the dean of the college of education of the University of Hawaii; the Hawaii state school/community-based management review panel; and the professional education community. The commission may request the assistance of such department or school staff as may be necessary to facilitate its review.

(d) The commission shall review the implementation of the performance standards by the board and the schools to determine whether the standards should be modified. In making such determination, the commission shall seek public input by holding public forums to discuss the implementation and effectiveness of the performance standards. The commission shall submit a report of its findings and recommendations regarding the effectiveness and the need for modification of the standards to the board and the legislature prior to the convening of the 1999 regular session. The board shall consider and implement such modifications beginning with the 1999-2000 school year.

**§296- Articulation agreement with the University of Hawaii; enrollment.** The department, in consultation with, and the concurrence of the University of Hawaii, shall establish rules to permit qualified students to enroll in any vocational or academic courses offered by the University of Hawaii system, provided that such courses are applicable to the department's graduation requirements or otherwise permitted by the department's rules or policies."

SECTION 21. Chapter 296, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART  
STUDENT-CENTERED SCHOOLS**

**§296-<sup>1</sup>** The legislature finds that individual public schools need the flexibility to develop and implement innovative programs and administrative frameworks which best serve the needs of their students. The purpose of this part is to authorize individual schools to implement alternative administrative and instructional programs. All public schools may use any available resources to achieve the purposes of this part; provided that no full-time personnel employed at the school shall be laid off. All full-time personnel who desire not to be a part of the student-centered school program shall receive priority status for transfer to schools in the community.

**§296- Student-centered schools; programs and administration.** (a) For the purposes of this section, "student-centered schools" means the implementation of alternative frameworks with regard to curriculum; facilities management; instructional approach; length of the school day, week, or year; and personnel management. Any public school, up to a total of twenty-five schools, may establish a student-centered school; provided that:

- (1) Any public school which establishes a student-centered school shall be exempt from all applicable state laws; except those regarding:
  - (A) Collective bargaining under chapter 89, provided that the exclusive representatives and the employers defined in chapter

89 may enter into agreements which contain cost and noncost items to facilitate decentralized decision-making;

- (B) State procurement laws; and
  - (C) Religious, racial, or sexual bias, and health and safety requirements;
- (2) The school establishes a local school board as its governing body composed of, at a minimum, one representative from the following participant groups:
- (A) Principals;
  - (B) Instructional staff members selected by the school instructional staff;
  - (C) Support staff selected by the support staff of the school;
  - (D) Parents of students attending the school selected by the parents of the school;
  - (E) Student body representatives selected by the students of the school; and
  - (F) The community at-large selected by the board;
- (3) The local school board may formulate school-based educational policy and goals in accordance with statewide educational performance standards, adopt school performance standards and assessment mechanisms, monitor school success, and may select the principal as the chief executive officer of the school in accordance with chapter 89. The principal shall consult and work collaboratively with the local school board and have jurisdiction over the internal organization, operation, and management of the school;
- (4) The local school board has developed a detailed implementation plan containing the elements prescribed under subsection (b) for a student-centered school that has been approved by three-fifths of the school's administrative, support, and teaching personnel, and parents; provided that the school personnel may request their bargaining unit representatives to certify and conduct the elections for their respective bargaining units;
- (5) The detailed implementation plan has been submitted to the board of education for review;
- (6) The detailed implementation plan assures compliance with statewide student performance standards; and
- (7) All student-centered schools shall not charge tuition.
- (b) The detailed implementation plan for the student-centered school shall include but not be limited to the following:
- (1) A description of the administrative and educational framework;
  - (2) Specific student outcomes to be achieved;
  - (3) The curriculum, instructional framework, and assessment mechanisms to be used to achieve student outcomes;
  - (4) Governance structure of the school;
  - (5) Facilities management plan; and
  - (6) Annual financial and program audits.
- (c) The board of education shall review the proposed student-centered school plan to assure that it complies with statewide educational performance standards. Unless the board finds that the plan conflicts with statewide educational performance standards, the plan shall become effective within thirty days after its submission. In the event the board of education finds a conflict with statewide educational performance standards, it shall notify the local school board of such

finding in writing to enable the local school board to appropriately amend the plan to resolve the conflict.

(d) Student-centered schools shall receive an allocation of state general funds on a per student basis which is equal to the statewide per pupil expenditure for average daily attendance; provided that the allocation for self-contained special education students and for other special education students shall be adjusted appropriately to reflect the additional expenses incurred for the students in these programs.

(e) All federal and other financial support for student-centered schools shall be equal to all other public schools; provided that if administrative services are provided to the school by the department, the school shall reimburse the department for the actual costs of such administrative services in an amount that does not exceed 6.5 per cent of the school's allocation. Any student-centered school shall be eligible to receive any financial grant or award for which any other public school may submit a proposal. All additional funds that are generated by the local school board shall be considered supplementary and may be expended at the discretion of the local school board.

(f) The department of education shall require every student-centered school to conduct self-evaluations annually. The self-evaluation process shall include but not be limited to the following:

- (1) The identification and adoption of benchmarks to measure and evaluate administrative and instructional programs as provided in this part; and
- (2) The impact upon the students of the student-centered school.

The department of education shall evaluate each student-centered school four years after its establishment to assure compliance with the statewide student performance standards. Upon a determination by the board that student achievement within a student-centered school does not meet the student performance standards, the board, upon a two-thirds majority vote, may deny the continuation of the student-centered school."

SECTION 22. Section 37-41.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any appropriation retained in accordance with this section may be used by the department of education [to supplement the appropriation for any program for which the department of education is responsible;] only for instructional purposes at the schools, complexes, or learning support centers, provided that the retention of an appropriation shall not be used as a basis for reducing the department's future budget requests unless the department requests such a reduction."

SECTION 23. Section 89-10.6, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§89-10.6]]~~ **School/community-based management waiver.** A school or a learning support center participating in the school/community-based management program shall have the authority to initiate a waiver from policies, rules, or procedures, including collective bargaining agreements, as provided for in section 296C-4."

SECTION 24. Section 296-15.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) To promote decentralization and facilitate restructuring of the department, the [board] department of education [may], without regard to the position variance requirements of the department of budget and finance[:], may:

- (1) Reallocate existing vacant positions throughout the department;
- (2) Directly authorize and implement internal reorganization actions;
- (3) Reassign employee duties;
- (4) Authorize position classifications; and
- (5) Conduct recruitment[.];

provided that any action taken pursuant to this section shall be to redirect resources from the state and district offices to the individual schools and learning support centers.”

SECTION 25. Section 296-92, Hawaii Revised Statutes, is amended to read as follows:

“[[§296-92]] **Educational assessment and accountability; annual reports.** (a) The [board] department of education shall submit to the legislature and to the governor, at least twenty days prior to the convening of each regular legislative session, an educational status report which shall include[,] but not be limited to[,] the following:

- (1) Results of school-by-school assessments of educational outcomes, including reference to such student performance standards and school-by-school assessment models as may be developed by the commission on performance standards and adopted by the board;
- (2) Summaries of school improvement plans;
- (3) Summary descriptions of the demographic makeup of the schools, with indications of the range of such conditions among schools within Hawaii;
- (4) Comparisons of conditions affecting Hawaii’s schools with those of schools in other states;
- [(5) Summaries of the resource allocations and expenditures under the control of the schools;] and
- [(6) (5) Other such assessments as may be deemed appropriate by the board.

(b) The department of education shall provide electronic access to computer-based financial management, student information, and other information systems to the legislature and the auditor. The auditor shall submit to the legislature and the governor, at least twenty days prior to the convening of each legislative session, a fiscal accountability report which shall include but not be limited to the following:

- (1) The financial analysis of expenditures by the department with respect to the following areas:
  - (A) Administration;
  - (B) Facilities and operations;
  - (C) Teacher support and development;
  - (D) Pupil support;
  - (E) Instructional support; and
  - (F) Classroom instruction;

and

- (2) The measures of accuracy, efficiency, and productivity of the department, districts, and schools in delivering resources to the classroom and the student.”



SECTION 26. Section 296C-2, Hawaii Revised Statutes, is amended to read as follows:

“**[§296C-2] Mandate to initiate school/community-based management system.** The department of education through the board of education and its superintendent shall formulate policies, including criteria and procedures to determine which schools and learning support centers shall participate in the system, to initiate a school/community-based management system in the public schools. The board of education shall appoint a representative selection panel to recommend which schools and learning support centers should be selected. For purposes of this chapter, the term “school/community-based management system” shall mean a method of educational management which diffuses educational decision-making to involve or secure the input of those directly affected by the decision to be made at the school level, and encourages school initiated methods for achieving educational goals established statewide by the board.”

SECTION 27. Section 296C-4, Hawaii Revised Statutes, is amended to read as follows:

“**[§296C-4] Waiver of policy, rule, or procedures.** Any state agency that may be required to act under state law on a matter affecting an individual school [and], its school community, or a learning support center shall waive otherwise applicable policies, rules, or procedures when requested to do so by a school or a learning support center participating in the school/community-based management system unless an agency can within thirty days justify a denial to the appropriate authority. The board of education shall adopt procedures necessary to process waivers initiated by schools or learning support centers subject to the school/community-based management system. This section shall apply to collective bargaining agreements as provided for in all relevant collective bargaining agreements negotiated pursuant to chapter 89.”

SECTION 28. Restructuring mandate. (a) Effective September 1, 1994, any provisions of chapters 89 and 37, to the contrary notwithstanding, the superintendent shall initiate the equitable reallocation of no less than twenty per cent of the state and district office personnel/positions, along with related expenses, to the learning support centers and shall complete this reallocation by August 31, 1995.

(b) Effective September 1, 1995, any provisions of chapters 89 and 37, to the contrary notwithstanding, the superintendent shall initiate the equitable reallocation of no less than twenty per cent of the remaining state and district office personnel/positions, along with related expenses, to the learning support centers and shall complete this reallocation by August 31, 1996.

(c) The department shall not replace positions and funds transferred pursuant to this section, and the complexes, through the learning support centers, shall determine how the positions and funds are to be used.

(d) The department shall submit to the legislature a status report outlining the specific reallocation of personnel and positions to the learning support centers no later than twenty days prior to the convening of the 1996 and 1997 regular sessions.

SECTION 29. There is established the Hawaii education restructuring commission to be administratively attached to the board of education, for the

purpose of ensuring, to the extent possible, compliance with the federal Goals 2000: Educate America Act, and to monitor the implementation of the restructuring of the public education system as provided by this Act. The commission may engage consultants necessary to assist in the performance of its duties, subject to the availability of funds under the federal Goals 2000: Educate America Act. The commission shall be composed of members as provided by the federal Goals 2000: Educate America Act.

To the extent possible, the appointing entities shall seek to provide the broadest base of representation in their appointments, and at least one member shall be a resident of each of the counties. The commission members shall not receive compensation for their services, but shall be reimbursed for necessary expenses from existing department appropriations, including travel expenses incurred in the performance of their duties under this Act. All appointments to the commission shall be made within ninety days after the effective date of this Act.

Staff from the department of education and other such agencies as the commission deems necessary, may be temporarily reassigned to the commission to facilitate this Act. The board of education, the superintendent, all executive agencies, and the legislature shall support the activities of the commission and facilitate efforts to achieve the objectives of this Act.

The commission shall monitor and facilitate the restructuring of the public school system pursuant to this Act to ensure an orderly transition from the existing organization to the new structure. The commission shall:

- (1) Monitor the progress of the restructuring effort to ensure that the current system is being converted in accordance with the goal of empowering the schools to become independent learning units;
- (2) Develop performance standards for department administrative and support staff;
- (3) Review all statutes related to the public education system for the purposes of amending, consolidating, and repealing any laws which impede the proposed restructuring plan;
- (4) Review all related state functions and programs, such as the public library system, school health services, personnel administration, procurement, facilities repair and maintenance, transportation services, and risk management to ascertain:
  - (A) Which of such functions and programs should be transferred to the public education system to empower the public school system to make decisions on auxiliary matters that directly impact the delivery of programs and services to students;
  - (B) Where in the restructured organization should the responsibilities for such transferred functions and programs be placed;
  - (C) A timeline for the orderly transfer of such functions and programs to the public school system; and
  - (D) The degree of autonomy in other areas, such as fiscal policy, which should be given to the board of education vis-a-vis the implementation of the department's restructuring and the proposed transfers of other state programs and functions, to proceed with systemic education reform.

The commission shall submit a report on the progress of the restructuring effort pursuant to this Act which shall include findings and recommendations resulting from the review of all education statutes prior to the convening of the 1995 regular session. The commission shall submit a report of findings and recommendations regarding the transfer of other state functions and programs prior

to the convening of the 1996 regular session. The commission's proposals for transferring other state functions and programs shall be subject to approval and modification by the legislature. Upon receiving legislative approval, the transfer of functions and programs shall be executed as follows:

- (1) The transfer of the programs and functions within the department of personnel services shall be implemented by the 1996-1997 fiscal year;
- (2) The transfer of the programs and functions within the department of accounting and general services and the department of budget and finance shall be implemented by the 1997-1998 fiscal year; and
- (3) The transfer of other relevant functions to provide a restructured fiscal system shall be implemented by the 1998-1999 fiscal year.

SECTION 30. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§304- Center for teacher education; university-school partnerships.** (a) Reforms to the public school system cannot succeed without concomitant reforms to the manner in which teachers are educated. The purpose of this section is to create a link between the public schools and university teacher education programs to ensure that teacher education is focused on the needs of the diverse student populations found within the public school system.

(b) There is established a center for teacher education within the University of Hawaii. The center, in collaboration with the board of education, shall:

- (1) Continually review the system of educating teachers for the purpose of redesigning the teacher education program of the college of education so that it is responsive to the needs of the public school system in Hawaii;
- (2) Develop innovative strategies to effectuate the changes in the teacher education program at the school level; and
- (3) Where appropriate, establish university-school partnerships as the mechanisms by which to implement the innovative strategies developed by the center.

The center shall submit prior to the convening of each regular session of the legislature a report to the board of regents, the board of education, and the legislature outlining its progress in redesigning the teacher education program and the initiation of any university-school partnerships."

#### PART IV. MISCELLANEOUS PROVISIONS

SECTION 31. (a) Upon approval by the board of public broadcasting and the board of regents of the University of Hawaii, the Hawaii public broadcasting authority and the University of Hawaii shall work together, with the support of the department of budget and finance as appropriate, to transfer the Hawaii interactive television system program from the Hawaii public broadcasting authority to the University of Hawaii.

(b) No officer or employee upon the transfer of functions by this Act, shall suffer any loss of salary, vacation, or sick leave or other employee benefits as a consequence of this action.

SECTION 32. Section 36-32, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created in the treasury of the State the state educational facilities improvement special fund, into which shall be deposited a portion of all general excise tax revenues collected by the department of taxation under section 237-31. The special fund shall be used solely to plan, design, acquire lands[,] for and to construct[,] public school facilities and to provide equipment[,] and<sup>1</sup> technology infrastructure to<sup>1</sup> improve public schools and other facilities under the jurisdiction of the department of education, except public libraries. In addition, activities of the department of education intended to eliminate the gap between the facility needs of schools and available resources shall be eligible for funding from the special fund. Expenditures from the special fund shall be limited to projects authorized by the legislature and shall be subject to sections 37-31, and 37-33 through 37-40. Appropriations or authorizations from the special fund shall be expended by the comptroller.”

SECTION 33. Act 334, Session Laws of Hawaii 1991, is amended by amending section 2 to read as follows:

“SECTION 2. There is established a commission for performance standards. The commission shall be placed within the department of education for administrative purposes, in accordance with section 26-35, Hawaii Revised Statutes. [The commission shall set the performance standards of achievement expected of students in public schools and the means to assess educational achievement.]”

SECTION 34. Act 364, Session Laws of Hawaii 1993, is amended as follows:

1. By amending section 26 to read:

“SECTION 26. The superintendent of education shall prepare a facilities improvement master plan outlining the specific actions, including a timetable and desired funding, that the department of education shall take to close the gap between the current need for facilities construction and improvement, as identified by the department of education, and the current funding available for that purpose. The plan shall link the planned department actions to the funding anticipated from the state educational facilities improvement special fund.

The plan shall include, but not be limited to:

- (1) Actions that will add to present funding for facilities, including earmarking tax increases for education, reviewing current impact fee guidelines, and making more efficient use of capital improvement projects funding;
- (2) Actions that will reduce capital improvement project design and construction costs, including using standardized design, constructing less than fifty-year life buildings, reviewing use of air-conditioning, utilizing turn-key contracts, issuing design-construct bids, and sharing infrastructure costs with counties;
- (3) Proposals to revise program guidelines, including reducing class size, changing existing space requirements, double-shifting kindergarten classes, building larger schools, and reviewing supplementary pull-out programs;
- (4) Proposals to maximize the use of existing facilities, including promoting multi-track, year-round schools, promoting a longer school

day, redistricting students outside their normal school area, taking administrative functions out of classroom space, and using other non-school space within the community; and

- (5) Consideration of the capacity of the construction industry in Hawaii to carry out proposed projects.

The superintendent of education shall submit an interim plan with its findings and recommendations to the legislature no later than twenty days prior to the convening of the regular session of 1994[.] and a final implementation plan no later than twenty days prior to the convening of the regular session of 1995."

2. By amending section 31 to read:

"SECTION 31. This Act shall take effect upon its approval; provided that sections 27 and 28 shall take effect on July 1, 1993; and provided further that the provisions of section 11 concerning pay adjustments and the provisions of section 13 concerning reallocation of vacant positions shall be repealed on June 30, [1995] 1997."

SECTION 35. (a) The auditor shall conduct evaluations of public school programs and their administration and financial audits of the accounts and transactions of the public school system, including the board of education, the department of education, and the individual public schools. The auditor shall submit an annual report to the legislature on its findings and recommendations and any other reports the auditor deems necessary.

(b) The auditor shall also provide assistance to the legislature in following up on any findings and recommendations related to educational accountability and auditing.

SECTION 36. No officer or employee of the State, except for superintendents, subordinate superintendents, and other employees serving at the pleasure of the board of Education, shall suffer any involuntary loss of employment, tenure or regular civil service status, classification, salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of department of education reorganization, or the implementation of Project Ke Au Hou, or other transitional plans developed by the restructuring commission as a consequence of this Act. Such officer or employee may be transferred or appointed without the necessity of civil service examination, provided that the officer or employee possesses the qualifications for the position to which transferred or appointed.

All officers and employees whose functions are transferred by this Act from another state agency to the department of education shall be transferred with their functions.

In the event that an office or position held by an officer or employee having regular status or tenure is abolished as a consequence of this Act, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible.

SECTION 37. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the

extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 38. 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 39. Constitutional and statutory material to be repealed is bracketed. New constitutional and statutory material is underscored.<sup>2</sup>

SECTION 40. This Act shall take effect upon its approval, provided that:

- (1) The amendments proposed in Section 2 to Article X, Section 2, and in Section 15 to Article X, Section 3 of the Constitution of the State of Hawaii shall take effect upon compliance with Article XVII, Section 3 of the Constitution of the State of Hawaii;
- (2) Sections 4 to 14 shall take effect upon ratification of the constitutional amendment proposed in Section 2 to Article X, Section 2 of the Constitution of the State of Hawaii; and
- (3) Sections 17 and 18 shall take effect upon ratification of the constitutional amendment proposed in Section 15 to Article X, Section 3 of the Constitution of the State of Hawaii.

(Approved July 5, 1994.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 273

S.B. NO. 2402

A Bill for an Act Relating to the Creation of More Parking Spaces.

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

SECTION 1. Section 291C-111, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) With respect to highways under their respective jurisdictions, the director of transportation is authorized to and the counties by ordinance may prohibit or restrict the stopping, standing, or parking of vehicles where the stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would interfere unduly with the free movement of traffic; provided that the violation of any law or any ordinance, regardless of whether established under this or any other section, prohibiting or restricting the stopping, standing, or parking of vehicles shall constitute a traffic infraction. The counties shall not provide any other penalty, civil or criminal, or

any other charge, in the form of rental or otherwise, in place of or in addition to the fine to be imposed by the district court for any violation of any ordinance prohibiting or restricting the stopping, standing, or parking of vehicles.

This section shall not be construed as prohibiting the authority of the director of transportation or the counties to allow the stopping, standing, or parking of motor vehicles at a "T-shaped" intersection on highways under their respective jurisdictions; provided that such stopping, standing, or parking of motor vehicles is not dangerous to those using the highway or where the stopping, standing, or parking of motor vehicles would not unduly interfere with the free movement of traffic.

The appropriate police department and county or prosecuting attorney[,] of the various counties shall enforce any law or ordinance prohibiting or restricting the stopping, standing, or parking of vehicles, including but not limited to the issuance of parking tickets. Any person committing a violation of any law or ordinance, regardless of whether established under this or any other section, prohibiting or restricting the stopping, standing, or parking of vehicles shall be subject to a fine to be enforced and collected by the district courts of this State and to be deposited into the state general fund for state use."

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

SECTION 3. This Act shall take effect on July 1, 1994.

(Approved July 5, 1994.)

ACT 274

H.B. NO. 2235

A Bill for an Act Relating to Exemptions from the General Excise Tax of Sales and Gross Proceeds of Sales.

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

SECTION 1. Section 237-25, Hawaii Revised Statutes, is amended by amending the title and subsection (a) to read as follows:

**"§237-25 Exemptions of sales and gross proceeds of sales to federal government[.], and credit unions.** (a) Any provision of law to the contrary notwithstanding, there shall be exempted from, and excluded from the measures of, the tax imposed by chapter 237 all sales, and the gross proceeds of all sales, of:

- (1) Intoxicating liquor, as defined in chapter 281, hereafter sold by any person licensed under chapter 281 to the United States (including any agency or instrumentality [thereof] of the United States that is wholly owned or otherwise so constituted as to be immune from the levy of a tax under chapter 238 or 244D but not including national banks), or to any organization to which [such] that sale is permitted by the proviso of "Class 3" of section 281-31, located on any [army, navy, or air force] Army, Navy, or Air Force reservation, but the person making the sale shall nevertheless, within the meaning of chapters 237, 244D, and 281 be deemed to be a licensed seller.

- (2) Tobacco products and cigarettes, as defined in chapter 245, sold by any person licensed under the chapter to the United States (including any agency or instrumentality thereof that is wholly owned or otherwise so constituted as to be immune from the levy of a tax under chapter 238 or 245 but not including national banks), but the person making the sale shall nevertheless, within the meaning of chapters 237 and 245, be deemed to be a licensed seller.
- (3) Other tangible personal property hereafter sold by any person licensed under this chapter to the United States (including any agency [or], instrumentality, or federal credit union thereof but not including national banks), and to any state-chartered credit union, but the person making such sale shall nevertheless, within the meaning of this chapter, be deemed a licensed seller.
- (4) When the amount of property sold by a licensee turns upon the amount of the property sold through a vending machine or similar device to the customer using the device, there shall not be deemed to have occurred any sale covered by an exemption under paragraph (1), (2), or (3)."

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

SECTION 3. This Act shall take effect on July 1, 1994.

(Approved July 5, 1994.)

## ACT 275

S.B. NO. 475

A Bill for an Act Relating to the Employees Retirement System.

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

SECTION 1. Act 339, Session Laws of Hawaii 1990, as amended by Act 98, Session Laws of Hawaii 1993, is amended by amending section 5 to read as follows:

"SECTION 5. This Act shall take effect on July 1, 1990, and shall be repealed as of June 30, [1995;] 1997; provided that section 88-11, Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act; and provided further that the repeal and reenactment shall not affect entitlement to benefits accruing to any retiree, pensioner, or beneficiary pursuant to this Act prior to July 1, [1995.] 1997."

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

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

(Approved July 5, 1994.)



A Bill for an Act Relating to the Employees' Retirement System.

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

SECTION 1. The purpose of this Act is to correct Act 357, Session Laws of Hawaii 1993, and to fulfill the intended objectives of that Act as originally proposed. The original premise of Act 357 was to grant retirement eligibility to water safety officers without reduction for age upon twenty-five years of service. However, the class status of water safety officers was also changed. It was not intended to require water safety officers to become contributory members subject to mandatory contribution of 12.2 per cent of compensation, but to recognize the inherently dangerous nature of their work and provide an early retirement without reduction for age in view of the strenuous physical requirements of that position, comparable to the benefit provided another class C group, sewer workers.

This Act will restore water safety officers to class C or noncontributory status. This amendment will allow service retirement, without actuarial reduction for age, for a public employee who has at least twenty-five years of credited service, the last five years of which are credited as a water safety officer. However, to the extent that some water safety officers have obtained rights under Act 357, those rights are preserved by permitting an election to remain a class A member.

In addition, the unfunded benefit obligation, actuarially determined, should be addressed. The funding of the retirement program for the security of members of the retirement system and the taxpayers is a matter of significant concern. However, any action taken will have consequences. Accordingly, the actuarial assumptions, as well as distribution of investment earnings are made subject to periodic actuarial review and legislative adjustment. This measure should assure that funding levels remain appropriate.

SECTION 2. Section 88-45, Hawaii Revised Statutes, is amended to read as follows:

“**§88-45 Employee contributions.** After June 30, 1988, each class A and class B member shall contribute seven and eight-tenths per cent of the member's compensation to the annuity savings fund; provided that after June 30, 1989, all firefighters, police officers, corrections officers, investigators of the departments of the prosecuting attorney and of the attorney general, narcotics enforcement investigators, and water safety officers not making the election under section 88-271 shall contribute twelve and two-tenths per cent of their compensation to the annuity savings fund for service in that capacity.”

SECTION 3. Section 88-47, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be three classes of members in the system to be known as class A, class B, and class C, defined as follows:

- (1) Class A shall consist of members covered by section 88-74(3), those members whose salaries are set forth in sections 26-52 and 26-53, investigators of the department of the attorney general, narcotics enforcement investigators, water safety officers[,], not making the election under section 88-271, and those members in service prior to

- July 1, 1984, including those who are on approved leave of absence, who are covered by Title II of the Social Security Act on account of service creditable under this part. This class shall consist of:
- (A) All employees who enter membership after June 30, 1957, except employees in positions to which coverage under Title II of the Social Security Act is not extended;
  - (B) All employees who were members on July 1, 1957, who elected to be covered by the Social Security Act; and
  - (C) All former class A retirants who return to employment after June 30, 1984, requiring the retirant's active membership;
- (2) Class B shall consist of all members who are not class A or class C members; and
- (3) Except for members [covered by section 88-74(3), those members whose salaries are set forth in sections 26-52 and 26-53, investigators of the department of the attorney general, narcotics enforcement investigators, and water safety officers,] described in section 88-47(a)(1), class C shall consist of all employees in positions covered by Title II of the Social Security Act who:
- (A) First enter service after June 30, 1984;
  - (B) Reenter service after June 30, 1984, without vested benefit status as provided in section 88-96(b);
  - (C) Make the election to become a class C member as provided in part VII; or
  - (D) Are former class C retirants who return to service requiring the retirant's active membership."

SECTION 4. Section 88-74, Hawaii Revised Statutes, is amended to read as follows:

**"§88-74 Allowance on service retirement.** Upon retirement from service, a member shall receive a retirement allowance as follows:

- (1) If the member has attained age fifty-five, a retirement allowance of two per cent of the member's average final compensation multiplied by the total number of years of the member's credited service as a class A and B member, plus a retirement allowance of one and one-fourth per cent of the member's average final compensation multiplied by the total number of years of prior credited service as a class C member; provided that:
  - (A) 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 firefighter, police officer, or an investigator of the department of the prosecuting attorney;
  - (B) After June 30, 1977, 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;
  - (C) After June 16, 1981, 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 an investigator of the department of the attorney general;
  - (D) After June 30, 1989, 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 narcotics enforcement investigator;

- (E) After June 30, 1992, if the member has at least ten years of credited service, a part of which is credited as a corrections officer or narcotics enforcement investigator; provided the member is employed with the department of public safety, is promoted or accepts a position as a public safety internal affairs investigator, and retires from that department; and
- (F) After December 31, 1993, 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 water safety officer;

then for each year of service as a firefighter, police officer, corrections officer, investigator of the department of the prosecuting attorney, investigator of the department of the attorney general, narcotics enforcement investigator, or water safety officer, the retirement allowance shall be two and one-half per cent of the member's average final compensation. The maximum retirement allowance for those members shall not exceed eighty per cent of the member's average final compensation. If the member has not attained age fifty-five, the member's retirement allowance shall be computed as though the member had attained age fifty-five, reduced in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary; provided that no reduction shall be made if the member has at least twenty-five years of credited service as a firefighter, police officer, corrections officer, investigator of the department of the prosecuting attorney, investigator of the department of the attorney general, narcotics enforcement investigator, sewer worker, or water safety officer, of which the last five or more years prior to retirement is credited service in such capacities;

- (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, the member may accept refund at the time of retirement or, in lieu thereof, receive in addition to the retirement allowance provided in paragraph (1), an annuity that is the actuarial equivalent of the additional contributions with regular interest; or
- (3) If the member has credited service as a judge, an elective officer, or the chief clerk, assistant clerk, sergeant at arms, or assistant sergeant at arms of either house of the legislature, the member's retirement allowance shall be computed on the following basis:
  - (A) Irrespective of age, for each year of credited service as a judge, an elective officer, or the chief clerk, assistant clerk, sergeant at arms, or assistant sergeant at arms of either house of the legislature, three and one-half per cent of the member's average final compensation in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of such service; and
  - (B) For all other credited service, as provided in paragraphs (1) and (2). No allowance shall exceed seventy-five per cent of the member's average final compensation. If the allowance exceeds this limit, it shall be adjusted by reducing the annuity included in subparagraph (A), and the portion of the accumulated contributions specified in that subparagraph in excess of the requirements of the reduced annuity shall be returned to the member.

The allowance for judges under this paragraph, together with the retirement allowance provided by the federal government for similar service, shall in no case exceed seventy-five per cent of the member's average final compensation."

SECTION 5. Section 88-105, Hawaii Revised Statutes, is amended to read as follows:

**"§88-105 Actuarial investigations, valuations.** At least once in each five-year period, commencing with [the year 1929,] fiscal year 1995, the actuary shall make an actuarial investigation of the experience of the system and shall recommend to the board of trustees the adoption for actuarial valuation of the system of such mortality, service and other tables as shall be deemed appropriate and necessary[.], and the actuary shall recommend to the legislature for its adoption the investment yield rate and annual salary increase assumption. The actuary shall assess the actual investment earnings during the five-year review period and recommend appropriate adjustments to the contributions under section 88-123 for the same period. The actuary shall further recommend the acceptable level of pension benefit obligation ratio for the system, taking into consideration the guaranties of Article XVI, section 2, of the State Constitution, section 88-107, and section 88-127.

On the basis of such tables and other factors as the board or legislature, as the case may be, shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the system."

SECTION 6. Section 88-107, Hawaii Revised Statutes, is amended to read as follows:

**"§88-107 Interest.** The board of trustees shall annually allocate the interest and other earnings of the system to the funds of the system, as follows:

- (1) The annuity savings fund shall be credited with the amount of regular interest credited to members' accounts; [and]
- (2) The expense fund shall be credited with such sums as provided in section 88-116; and
- [(2)] (3) The remaining investment earnings, if any, shall be credited to the pension accumulation fund.

The amounts to be contributed to the pension accumulation fund by the State and counties shall be reduced by any investment earnings in excess of the investment yield rate applied in actuarial valuations[.], except as otherwise provided. Any additional amount required to meet the investment yield rate for the preceding year until fiscal year 2000 shall be paid by the State and counties, and shall be credited to the pension accumulation fund.

Beginning with actual investment earnings in fiscal year 1995 in excess of the investment yield rate, to address outstanding unfunded pension obligations, ten per cent of such excess earnings shall be deposited in the pension accumulation fund; remaining excess earnings shall be applied to the amounts to be contributed under section 88-123. In each succeeding fiscal year, another ten per cent, cumulatively up to one hundred per cent, of any excess such earnings shall be similarly allocated and deposited in the pension accumulation fund.

Following each five-year actuarial review as provided in section 88-105, the legislature shall evaluate the allocation and distribution of investment

ACT 276

earnings in excess of the investment yield rate, and make such adjustments as appropriate. In the absence of affirmation by resolution, investment earnings in excess of the investment yield rate shall be applied to the contributions under section 88-123."

SECTION 7. Section 88-114, Hawaii Revised Statutes, is amended to read as follows:

**"§88-114 Pension accumulation fund.** The pension accumulation fund shall be the fund in which shall be accumulated all contributions made by the State and any county and all income from investments and from which shall be paid all benefits, including the bonus authorized under section 88-11, and other than those benefits which are specifically payable from other funds."

SECTION 8. Section 88-116, Hawaii Revised Statutes, is amended to read as follows:

**"§88-116 Expense fund.** The expense fund shall be the fund to which shall be credited all money [provided by the State and counties] to pay the administration expenses of the system, and from which shall be paid all the expenses necessary in connection with the administration and operation of the system. Biennially, the board of trustees shall estimate the amount of money necessary to be paid into the expense fund during the ensuing biennium to provide for the expense of operation of the system[. The expense shall be prorated among the State and the respective counties upon the basis of the total payroll of the employees of each who are included in the system, and each shall pay its prorata share thereof.], and shall pay that amount into the expense account from the investment earnings of the system, subject to review by the legislature and approval by the governor."

SECTION 9. Section 88-122, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The actuarial valuations made for years ending June 30, [1993,] 1995, and June 30, [1994,] 1996, shall be based on an eight per cent investment yield rate, assumed salary increases of six and one-half per cent, and<sup>1</sup> tables and factors adopted by the board<sup>2</sup> or legislature for actuarial valuations of the [system.] system, subject to recommendations made by the actuary appointed under section 88-30."

SECTION 10. Section 88-271, Hawaii Revised Statutes, is amended to read as follows:

**"§88-271 Election.** (a) Any class A or class B member who:

- (1) Is in service on June 30, 1984, or who returns to service after June 30, 1984, and has vested benefit status as provided in section 88-96(b); and
- (2) Is in a position covered by Title II of the Social Security Act, may elect to become a class C member effective January 1, 1985; or upon return to service, by filing an election form with the board.

The election shall be made prior to December 1, 1984, or within thirty days of

return to service and shall be irrevocable. A class A or class B member who makes such an election shall be refunded all accumulated contributions and shall not be required to make further contributions upon becoming a class C member. The refund shall be made by March 31, 1985, or within ninety days after return to service. Upon the effective date of the election, all rights as a class A or class B member shall be extinguished.

(b) [A] After June 30, 1984, a class A or class B member, who returns to service but does not have vested benefit status as provided in section 88-96(b), shall become a class C member upon return to service and shall be refunded all accumulated contributions.

(c) The board shall provide information explaining the effects of the election described in subsection (a).

(d) Any water safety officer who is in service on the effective date of this Act may elect to become a class C member by filing an election form with the board. The election shall be made prior to September 1, 1994, and shall be irrevocable. The accumulated contributions of a water safety officer who makes this election shall be returned to the water safety officer through payroll adjustments or another procedure as determined by the board. Upon the effective date of the election, all rights as a class A member shall be extinguished. All persons first employed as a water safety officer after the effective date of this Act shall be class C members.

SECTION 11. Section 88-281, Hawaii Revised Statutes, is amended:

1. By amending subsection (b) to read as follows:

“(b) If a member has at least twenty-five years of credited service as a sewer worker or as a water safety officer of which the last five or more years prior to retirement is credited in such a capacity, then the sewer worker or water safety officer shall be eligible to receive a normal retirement benefit unreduced for age.”

2. By amending subsection (e) to read as follows:

“(e) A member may retire upon the written application to the board specifying the desired date of retirement which shall be not less than thirty days nor more than ninety days subsequent to the date of filing. If the member dies after the date of filing the application to retire but prior to the effective date of retirement, the member’s designated beneficiary may receive the member’s retirement benefits which shall be computed as though the member had died on the effective date of retirement under the mode of retirement selected.”

SECTION 12. Section 2 of Act 357, Session Laws of Hawaii 1993, is repealed.

[“SECTION 2. (a) All water safety officers of any county of the State shall be designated class A members of the employees’ retirement system as of December 31, 1993.

(b) Water safety officers who are class C members shall have the option of converting their class C water safety officer service to class A. All water safety officers who are class C members, shall file an election form with the board of trustees by December 1, 1993, and arrange for additional deductions or lump sum payments pursuant to sections 88-45 and 88-59, Hawaii Revised Statutes, to commence by July 1, 1994.”]

**ACT 277**

SECTION 13. All rights, entitlements, and obligations under Act 357, Session Laws of Hawaii 1993, are preserved for those water safety officers who do not elect to become class C members as permitted by section 10 of this Act.

SECTION 14. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 15. The provisions of this Act are declared severable, and if any provision thereof is held to be invalid for any reason, the validity of the remainder of the Act shall not be affected.

SECTION 16. Sections 6, 7, and 8 of this Act shall apply to the amounts to be contributed to the pension accumulation fund and expense fund beginning July 1, 1995.

SECTION 17. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 18. This Act shall take effect on July 1, 1994.

(Approved July 5, 1994.)

**Notes**

1. Prior to amendment "the" appeared here.
2. Prior to amendment "of trustees" appeared here.

**ACT 277**

H.B. NO. 3212

A Bill for an Act Relating to Nurses.

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

SECTION 1. Chapter 457, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§457- Advanced practice registered nurse; qualifications; recognition; endorsement; fees.** (a)<sup>1</sup> The board shall grant recognition as an advanced practice registered nurse provided the nurse has:

- (1) A current, unencumbered license as a registered nurse in this State;
- (2) An unencumbered license as a registered nurse in all other states in which the nurse is licensed; and
- (3) A master's degree in nursing as specified in rules adopted by the board or a current certification for specialized and advanced nursing practice from a national certifying body recognized by the board; and
- (4) Paid appropriate fees."

SECTION 2. Section 26H-4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:  
 1994: “(a) The following chapters are hereby repealed effective December 31,

- (1) Chapter 447 (Dental Hygienists)
- (2) [Chapter 457 (Board of Nursing)]
- (3) Chapter 457A (Nurse Aides)
- [ (4) ] (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- [ (5) ] (4) Chapter 461 (Board of Pharmacy)
- [ (6) ] (5) Chapter 468L (Travel Agencies)”

2. By amending subsection (g) to read:  
 2000: “(g) The following chapters are hereby repealed effective December 31,

- (1) Chapter 439 (Board of Cosmetology)
- (2) Chapter 448F (Electrologists)
- (3) Chapter 454 (Mortgage Brokers and Solicitors)
- (4) Chapter 454D (Real Estate Collection Servicing Agents)
- (5) Chapter 466 (Board of Public Accountancy)
- (6) Chapter 467 (Real Estate Commission)
- (7) Chapter 457 (Board of Nursing).”

SECTION 3. Section 457-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Advanced practice registered nurse” means a registered nurse who has met the qualifications for advanced practice registered nurse set forth in this chapter and through rules of the board, which shall include educational requirements.”

SECTION 4. Section 457-2, Hawaii Revised Statutes, is amended by amending the definition of “the practice of nursing as a registered nurse” to read as follows:

““The practice of nursing as a registered nurse” means the performance of professional services commensurate with the educational preparation and demonstrated competency of the individual having specialized knowledge, judgment, and skill based on the principles of the biological, physical, behavioral, and sociological sciences and nursing theory, whereby the individual shall be accountable and responsible to the consumer for the quality of nursing care rendered. The foregoing may include, but not be limited to, observation, assessment, development, implementation, and evaluation of a plan of care, health counseling, supervision and teaching of other personnel, and teaching of individuals, families, and groups in any stage of health or illness; or administration, supervision, coordination, delegation, and evaluation of nursing practice; or provisions of health care to the patient in collaboration with other members of the health care team as autonomous health care professionals providing the nursing component of health care; or utilization of reasonable judgment in carrying out prescribed medical orders of a licensed dentist, medical doctor, osteopath, or podiatrist licensed in accordance with chapter 448, 453, 460, or 463E[.] or the orders of an advanced practice registered nurse recognized in accordance with this chapter.”



SECTION 5. Section 457-3, Hawaii Revised Statutes, is amended to read as follows:

**“§457-3 State board of nursing; appointment; term of office; removal from office.** The board shall consist of nine members, five of whom shall be registered nurses, two of whom shall be licensed practical nurses and two of whom shall be public members[.]; provided that at the first vacancy of a registered nurse member of the board after the effective date of this Act and thereafter, at least one of the registered nurses shall meet the requirements for recognition as an advanced practice registered nurse set out in this chapter. Both nursing education and direct providers of nursing [service] services shall be represented on the board. The term of office for members of the board shall be three years. No member shall be appointed to more than two consecutive terms or serve more than six consecutive years. Six members of the board shall be residents of the city and county of Honolulu and three shall be residents of counties other than the city and county of Honolulu.”

SECTION 6. Section 457-4, Hawaii Revised Statutes, is amended to read as follows:

**“§457-4 Qualifications of board members.** (a) Each member of the board shall be a resident of this State.

[Registered] Each registered nurse [members] member of the board shall [possess the following additional qualifications:] also:

- (1) [Graduation from] Be a graduate of a state-accredited educational program to prepare for becoming a registered nurse and have at least a bachelor’s degree in nursing but preferably a graduate degree in nursing; [and]
- (2) Have a current, unencumbered license as a registered nurse in the State;<sup>2</sup> and
- (3) Have at least five years of experience after graduation in the practice of nursing as a registered nurse and at least three years of active nursing experience as a registered nurse immediately preceding appointment or reappointment.

[Licensed] (b) Each licensed practical nurse [members] member of the board shall [possess the following additional qualifications:] also:

- (1) [Graduation from] Be a graduate of a state-accredited educational program to prepare for becoming a licensed practical nurse; [and]
- (2) Have a current, unencumbered license as a licensed practical nurse[;] in the State; and
- (3) Have at least five years of successful experience in the practice of nursing as a licensed practical nurse after graduation and at least three years of active nursing experience as a licensed practical nurse immediately preceding appointment or reappointment.

(c) Each advanced practice registered nurse member of the board shall:

- (1) Have current, unencumbered recognition by the board as an advanced practice registered nurse; and
- (2) Have at least five years of experience in the practice of nursing as an advanced practice registered nurse and at least three years of active nursing experience as an advanced practice registered nurse immediately preceding appointment or reappointment.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>3</sup>

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

(Approved July 5, 1994.)

Notes

1. No subsection (b) designation.
2. "In the State" should be underscored.
3. Edited pursuant to HRS §23G-16.5.

ACT 278

S.B. NO. 1249

A Bill for an Act Relating to Health Care Services.

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

SECTION 1. Chapter 457, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§457- Prescriptive authority for advanced practice registered nurses.** (a)<sup>1</sup> The department of commerce and consumer affairs shall grant prescriptive authority to advanced practice registered nurses; provided that the board of medical examiners shall designate the applicable formularies; provided further that the board of medical examiners shall submit an interim report on the establishment of the formularies by December 31, 1994."

SECTION 2. New statutory material is underscored.<sup>2</sup>

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

(Approved July 5, 1994.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 279

H.B. NO. 3513

A Bill for an Act Relating to Oversight.

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

SECTION 1. Section 23-4, Hawaii Revised Statutes, is amended to read as follows:

**"§23-4 Duties.** (a) The auditor shall conduct postaudits of the transactions, accounts, programs, and performance of all departments, offices, and agencies of the State and its political subdivisions. The postaudits and all examinations to discover evidence of any unauthorized, illegal, irregular, improper, or unsafe handling or expenditure of state funds[,] or other improper practice of

financial administration shall be conducted at least once in every two years after the close of a fiscal year, and at [such] any other time or times during the fiscal year as the auditor [shall deem] deems necessary or as may be required by the legislature for the purpose of certifying to the accuracy of all financial statements issued by the respective accounting officers and of determining the validity of expenditures of state or public funds.

(b) The auditor, in conducting postaudits, to the extent practicable and applicable to the audit scope and objectives, shall review [all] and assess the audited agency's rules [submitted to it] as [provided] defined in section [91-4.1.] 91-1.

[(c) The auditor shall maintain and keep current a compilation of all rules adopted pursuant to chapter 91.]”

SECTION 2. Section 26-9, Hawaii Revised Statutes, is amended by amending subsections (n) and (o) to read as follows:

“(n) Each board and commission, as well as the director, by written order, may delegate to the executive secretary or other personnel of the department any of its powers or duties as it deems reasonable and proper for the administration of the licensing laws [in section 26H-4 which] that are within the jurisdiction of the department of commerce and consumer affairs. The delegated powers and duties may be exercised by the executive secretary or other personnel of the department in the name of the board, commission, or the director. [The] However, neither a board, a commission, [and] nor the director shall [not, however,] delegate [its] the authority to adopt, amend, or repeal rules[,] or take final disciplinary action against a licensee.

(o) Every person licensed under any chapter [subject to section 26H-4,] within the jurisdiction of the department of commerce and consumer affairs, other than chapter 468, and every person licensed subject to chapter 485 or registered under chapter 467B shall pay upon issuance of a license, permit, certificate, or registration a fee and a subsequent annual fee to be determined by the director and adjusted from time to time to ensure that the proceeds, together with all other fines, income, and penalties collected under this section, do not surpass the annual operating costs of conducting compliance resolution activities required under this section. The fees may be collected biennially or pursuant to rules adopted under chapter 91, and [which] shall be deposited into the special fund established under this subsection. Every filing pursuant to chapter 514E or section 485-6(15) shall be assessed, upon initial filing and at each renewal period in which a renewal is required, a fee that shall be prescribed by rules adopted under chapter 91, and that shall be deposited into the special fund established under this subsection. Any unpaid fee shall be paid by the licensed person, upon application for renewal, restoration, reactivation, or reinstatement of a license, and by the person responsible for the renewal, restoration, reactivation, or reinstatement of a license, upon the application for renewal, restoration, or reinstatement of the license. If the fees are not paid, the director may deny renewal, restoration, reactivation, or reinstatement of the license. The director may establish, increase, decrease, or repeal the fees when necessary pursuant to rules adopted under chapter 91.

There is created in the state treasury a special fund to be known as the compliance resolution fund to be expended by the director's designated representatives as provided by this subsection. Notwithstanding any law to the contrary, the moneys in the fund shall consist of annual fees collected under this

subsection, section 514A-95, penalties or fines assessed as a result of action brought by department personnel, and penalties, fines, or reimbursement of costs or [attorneys] attorneys' fees assessed as a result of actions brought for violations of chapters 480 and 487. Any law to the contrary notwithstanding, the director may use the moneys in the fund to employ, without regard to chapters 76 and 77, hearings officers, investigators, attorneys, accountants, and other necessary personnel to implement this subsection. In addition, the moneys in the fund shall defray all other administrative costs, including personnel costs of operating the regulated industries complaints office and costs incurred by supporting offices and divisions. The moneys in the fund may be used to train personnel as the director deems necessary[,] and for any other activity related to compliance resolution.

As used in this subsection, unless otherwise required by the context, "compliance resolution" means a determination of whether:

- (1) Any licensee or applicant under any chapter subject to [section 26H-4,] the jurisdiction of the department of commerce and consumer affairs, other than chapter 468, has complied with that chapter;
- (2) Any person subject to chapter 485 has complied with that chapter;
- (3) Any person submitting any filing required by chapter 514E or section 485-6(15) has complied with chapter 514E or section 485-6(15);
- (4) Any person has complied with the prohibitions against unfair and deceptive acts or practices in trade or commerce; or
- (5) Any person subject to chapter 467B has complied with that chapter.

The director shall prepare and submit an annual report to the governor and the legislature on the use of the compliance resolution fund. The report shall describe expenditures made from the fund including nonpayroll<sup>1</sup> operating expenses. This subsection shall be repealed effective July 1, 2001."

SECTION 3. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

**"§26H-4 Repeal dates[.] for newly enacted professional and vocational regulatory programs.** [(a) The following chapters are hereby repealed effective December 31, 1994:

- (1) Chapter 447 (Dental Hygienists)
  - (2) Chapter 457 (Board of Nursing)
  - (3) Chapter 457A (Nurse Aides)
  - (4) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - (5) Chapter 461 (Board of Pharmacy)
  - (6) Chapter 468L (Travel Agencies)
- (b) The following chapters are hereby repealed effective December 31,

1995:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 445 Part V (Pawnbrokers)
- (5) Chapter 448H (Elevator Mechanics Licensing Board)
- (6) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (7) Chapter 453 (Board of Medical Examiners)
- (8) Chapter 463E (Podiatry)

ACT 279

(c) The following chapters and sections are hereby repealed effective December 31, 1996:

- (1) Sections 321-13 to 321-15 (laboratory directors, laboratory technologists, laboratory supervisors, laboratory technicians, and sanitarians)
  - (2) Chapter 321, Part XXX, (Tattoo Artists)
  - (3) Chapter 321, Part XXXI, (Midwives)
  - (4) Sections 431:10A-116(4) and 432:1-605 (Mammogram Screening)
  - (5) Chapter 448F (Electrologists)
  - (6) Chapter 466J (Board of Radiologic Technology)
- (d) The following chapters are hereby repealed effective December 31,

1997:

- (1) Chapter 438 (Board of Barbers)
- (2) Chapter 448 (Board of Dental Examiners)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 459 (Board of Examiners in Optometry)
- (5) Chapter 460J (Pest Control Board)
- (6) Chapter 462A (Pilotage)
- (7) Chapter 471 (Board of Veterinary Examiners)

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

1998:

- (1) Chapter 373 (Commercial Employment Agencies)
- (2) Chapter 441 (Cemetery and Funeral Trusts)
- (3) Chapter 443B (Collection Agencies)
- (4) Chapter 463 (Board of Private Detectives and Guards)
- (5) Chapter 468 (Solicitors; Business of Taking Orders)

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

1999:

- (1) Chapter 436E (Board of Acupuncture)
- (2) Chapter 442 (Board of Chiropractic Examiners)
- (3) Chapter 444 (Contractors License Board)
- (4) Chapter 448E (Board of Electricians and Plumbers)
- (5) Chapter 452 (Board of Massage Therapy)
- (6) Chapter 460 (Board of Osteopathic Examiners)
- (7) Chapter 461J (Board of Physical Therapy)
- (8) Chapter 464 (Professional Engineers, Architects, Surveyors and Landscape Architects)
- (9) Chapter 465 (Board of Psychology)
- (10) Chapter 468E (Speech Pathology and Audiology)
- (11) Chapter 514E (Time Sharing Plans)

(g) The following chapters are hereby repealed effective December 31,

2000:

- (1) Chapter 439 (Board of Cosmetology)
- (2) Chapter 448F (Electrologists)
- (3) Chapter 454 (Mortgage Brokers and Solicitors)
- (4) Chapter 454D (Real Estate Collection Servicing Agents)
- (5) Chapter 466 (Board of Public Accountancy)
- (6) Chapter 467 (Real Estate Commission)

(h) The following chapter is hereby repealed effective December 31,

2001:

(1) Chapter 458 (Board of Dispensing Opticians)] Any professional or vocational regulatory program enacted after July 1, 1994, shall be repealed at the

end of the third full calendar year following the program's enactment. The auditor shall perform an evaluation of the program, pursuant to section 26H-5, prior to its repeal date."

SECTION 4. Section 26H-5, Hawaii Revised Statutes, is amended to read as follows:

**"§26H-5 Evaluation; report.** (a) The legislative auditor shall evaluate each board, commission, and regulatory program [created under a chapter repealed] subject to repeal by section 26H-4 and shall submit an evaluation report to the legislature prior to the convening of the regular session of the year of the repeal date[; provided that the legislative auditor shall evaluate each board, commission, and regulatory program at least once every ten years]. The evaluation shall assess whether the regulatory program as established [by the chapter] complies with the policies established by section 26H-2 and whether the public interest requires that the [chapter] law establishing the regulatory program be reenacted, modified, or permitted to expire.

(b) If the auditor finds that the [chapter] law establishing the regulatory program should be modified, the auditor shall incorporate in the auditor's report, drafts of recommended legislation to be considered for enactment and [which,] that if enacted, would improve the policies, procedures, and practices of the regulatory program evaluated. The auditor may request the assistance of the legislative reference bureau in drafting [such] recommended legislation. Any other law to the contrary notwithstanding, the auditor may release copies of preliminary reports to the legislative reference bureau if the auditor requests the legislative reference bureau's assistance under this subsection. The legislative reference bureau shall comply with the auditor's request if the auditor provides a copy of the preliminary report to the bureau at the same time the report is provided to a board, commission, or regulatory program pursuant to subsection (d).

(c) Each board or commission and the director shall assist the auditor in collecting and reporting [such] data as the auditor may require to conduct the evaluation. Even if the auditor finds that the [chapter] law establishing the regulatory program should not be reenacted, the auditor shall evaluate the effectiveness and efficiency of the regulatory program and make appropriate recommendations to improve the policies, procedures, and practices. The legislature may hold a public hearing on each evaluation report. If the auditor finds that [a] the law establishing a regulatory program [within the chapter] should be permitted to expire, the auditor shall make recommendations, if needed, for appropriate restrictions to be placed on the program subsequent to the termination of regulation.

(d) The legislative auditor shall provide each board, commission, or regulatory program evaluated pursuant to this chapter not less than thirty days to review and comment upon the evaluation report prior to submission of the report to the legislature; provided that if the legislative auditor fails to provide the thirty day review and comment period to the board, commission, or regulatory program being evaluated, the [chapter] law establishing the regulatory program that is subject to repeal shall be automatically reenacted for a period of one year. If the legislative auditor receives written comments from the board, commission, or department of commerce and consumer affairs, the legislative auditor shall append the written comments to each copy of the evaluation report prior to submission to the legislature.

(e) Except as provided in this chapter, no board, commission, or regulatory program shall be evaluated automatically by the auditor. Nothing in this

section is intended to prevent the auditor from conducting an evaluation of a board, commission, or regulatory program at the specific request or direction of the legislature."

SECTION 5. Section 91-4.1, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§91-4.1]~~ **Review of rules.** (a) **Rulemaking actions; copies in Ramseyer format.** Each state agency adopting, amending, or repealing a rule[, after approval thereof by the governor,] shall [submit certified copies thereof, which shall be drafted] prepare a certified copy of the rule changes according to the Ramseyer format[, to the legislative auditor]. Each state agency shall maintain a file of the copies in the Ramseyer format and shall make the file available for public inspection and copying at a reasonable cost.

(b) The office of the legislative auditor shall review each rule and rule amendment submitted by a state agency under this section to determine if the rule or amendment violates the substantive authority under which the rule or amendment was adopted. The office shall submit to each regular session of the legislature a report concerning its findings itemizing the agency and rules which may be in violation of the substantive authority under which the rule or amendment was adopted. The legislature shall take such action in response to the report as it finds appropriate and shall notify each agency or department whose rule is itemized in the report of the report's findings.]"

SECTION 6. Section 91-5, Hawaii Revised Statutes, is amended to read as follows:

"**§91-5 Publication of rules.** (a) Each agency shall[, as soon as practicable after January 2, 1962,] compile, index, and publish, in the manner prescribed by the format established by the revisor of statutes under section 91-4.2(1), all rules adopted by the agency and remaining in effect. Compilations shall be supplemented as often as necessary and shall be revised at least once every ten years. [Within two years of June 21, 1979, each agency shall have compiled and published all of its rules in effect in the manner specified by the revisor of statutes' format rules.

(b) Each agency, as soon as practicable after July 1, 1979, shall provide to the office of the legislative auditor free of charge, a current compilation of all rules adopted by the agency and in effect as of July 1, 1979.

(c) (b) Compilations and supplements shall be made available free of charge upon request by the state officers in the case of a state agency and by the county officers in the case of a county agency. As to other persons, each agency may fix a price to cover mailing and publication costs. Each state agency adopting, amending, or repealing a rule shall file [forthwith] a copy with the revisor of statutes."

SECTION 7. Section 91-13.1, Hawaii Revised Statutes, is amended to read as follows:

"**§91-13.1 Administrative review of denial or refusal to issue license or certificate of registration.** Except as otherwise provided by law, any person aggrieved by the denial or refusal of any board or commission [listed in section 26H-4] subject to the jurisdiction of the department of commerce and consumer

affairs, to issue a license or certificate of registration, shall submit a request for a contested case hearing pursuant to chapter 91 within sixty days of the date of the refusal or denial. Appeal to the circuit court under section 91-14, or any other applicable statute, may only be taken from a board or commission's final order."

SECTION 8. Section 26H-8, Hawaii Revised Statutes, is repealed.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000, or so much thereof as may be necessary for fiscal year 1994-1995, for the auditor to carry out the purposes of this Act.

The sum appropriated shall be expended by the office of the auditor for the purposes of this Act.

SECTION 10. Statutory material to be repealed is bracketed.<sup>2</sup> New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 1994.

(Approved July 6, 1994.)

#### Notes

1. "Nonpayroll" should be hyphenated.
2. Edited pursuant to HRS §23G-16.5.

## ACT 280

H.B. NO. 2692

A Bill for an Act Relating to Education.

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

SECTION 1. The purpose of this Act is to propose amendments to Article VII, section 12 and Article X, section 1, of the Constitution of the State of Hawaii, and to chapter 39A, Hawaii Revised Statutes, to authorize the State to use the proceeds of special purpose revenue bonds to finance or assist not-for-profit corporations that provide early childhood education and care facilities serving the general public.

SECTION 2. Article VII, section 12, of the Constitution of the State of Hawaii is amended to read as follows:

### **"DEFINITION; ISSUANCE OF INDEBTEDNESS**

**Section 12.** For the purposes of this article:

1. The term "bonds" shall include bonds, notes and other instruments of indebtedness.
2. The term "general obligation bonds" means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are pledged and, unless otherwise indicated, includes reimbursable general obligation bonds.



3. The term “net revenues” or “net user tax receipts” means the revenues or receipts derived from a public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of such public undertaking, improvement or system and the required payments of the principal of and interest on all revenue bonds issued therefor have been made.

4. The term “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 the foregoing.

5. The term “rates, rentals and charges” means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder.

6. The term “reimbursable general obligation bonds” means general obligation bonds issued for a public undertaking, improvement or system from which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.

7. The term “revenue bonds” means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law.

8. The term “special purpose revenue bonds” means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law.

9. The term “user tax” means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system.

The legislature, by a majority vote of the members to which each house is entitled, shall authorize the issuance of all general obligation bonds, bonds issued under special improvement statutes and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance. The legislature by general law shall authorize political subdivisions to issue general obligation bonds, bonds issued under special improvement statutes and revenue bonds and shall prescribe the manner and procedure for such issuance. All such bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision.

Special purpose revenue bonds shall only be authorized or issued to finance facilities of or for, or to loan the proceeds of such bonds to assist[, manufacturing,]:

1. Manufacturing, processing or industrial enterprises[, utilities];
2. Utilities serving the general public[, health];
3. Health care facilities provided to the general public by not-for-profit corporations [or low];
4. Early childhood education and care facilities provided to the general public by not-for-profit corporations; or
5. Low and moderate income government housing programs, each of which is hereinafter referred to in this paragraph as a special purpose entity.

The legislature, by a two-thirds vote of the members to which each house is entitled, may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and, by a two-thirds vote of the members to which each house is entitled and by separate legislative bill, may authorize the State to issue special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the legislature. The legislature may enact enabling legislation to authorize political subdivisions to issue special purpose revenue bonds. If so authorized, a political subdivision by a two-thirds vote of the members to which its governing body is entitled and by separate ordinance may authorize the issuance of special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the governing body of the political subdivision. No special purpose revenue bonds shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person under contract or from any security for such contract or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof. The governor shall provide the legislature in November of each year with a report on the cumulative amount of all special purpose revenue bonds authorized and issued, and such other information as may be necessary."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the State be authorized to issue special purpose revenue bonds to assist not-for-profit corporations which provide early childhood education and care facilities to the general public?"

SECTION 4. Article X, section 1, of the Constitution of the State of Hawaii is amended to read as follows:

#### **"PUBLIC EDUCATION**

**Section 1.** The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control, a state university, public libraries and such other educational institutions as may be deemed desirable, including physical facilities therefor. There shall be no discrimination in public educational institutions because of race, religion, sex or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or private educational institution[.], except that proceeds of special purpose revenue bonds authorized or issued under section 12 of Article VII may be appropriated to finance or assist not-for-profit corporations that provide early childhood education and care facilities serving the general public."

SECTION 5. The question to be printed on the ballot shall be as follows:

"Shall the State be authorized to use public funds in the form of proceeds of special purpose revenue bonds, to assist not-for-profit corporations that provide early childhood education and care facilities serving the general public?"

SECTION 6. Chapter 39A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . ASSISTING NOT-FOR-PROFIT CORPORATIONS  
THAT PROVIDE EARLY CHILDHOOD EDUCATION AND  
CARE FACILITIES SERVING THE GENERAL PUBLIC**

**§39A- Definitions.** Whenever used in this part, unless a different meaning clearly appears from the context:

"Department" means the department of budget and finance.

"Early childhood education and care facility" means any property used primarily for the care and instruction of children from birth to age five; provided that it shall not include any property to be used primarily for sectarian instruction or study, or as a place for devotional activities or religious worship, or any property used primarily in connection with any part of a program of a school or department of divinity of any religious denomination.

"Project agreement" means any agreement entered into under this part by the department with a project party providing for the issuance of special purpose revenue bonds to finance facilities of a project party or for a project party or to loan the proceeds of such bonds to assist not-for-profit corporations that provide early childhood education and care facilities that serve the general public, including without limitation any loan agreement.

"Project party" means a not-for-profit corporation that provides an early childhood education and care facility that serves the general public.

"Refinancing of outstanding obligations" or "refinancing" means the liquidation, retirement, or provision for retirement with the proceeds of bonds issued by the State, of any indebtedness of a project party incurred to finance or aid in financing a lawful purpose of such project party not financed pursuant to this part which constitutes an early childhood education and care facility or consolidation of such indebtedness with indebtedness of the State incurred for an early childhood education and care facility related to the purpose for which the indebtedness of the project party was initially incurred.

"Special purpose revenue bonds" or "bonds" means bonds, notes, or other evidences of indebtedness of the State issued pursuant to this part.

**§39A- Department powers as to early childhood education and care facilities.** In addition to powers which it may now have, the department shall have all powers necessary or convenient to accomplish the purposes of this part. The powers of the department include, but are not limited to, the following:

- (1) Notwithstanding and without compliance with section 103-7, but with the approval of the governor, to enter into and carry out a project agreement, or an amendment or supplement to an existing project agreement, with a project party, and to enter into and carry out any agreement whereby the obligation of a project party under a project agreement will be unconditionally guaranteed by a person other than a project party.
- (2) To issue special purpose revenue bonds pursuant to and in accordance with this part.
- (3) To lend the proceeds of the special purpose revenue bonds issued for a project to the project party for use and application by the project party for the acquisition, purchase, construction, reconstruction, improvement, betterment, extension, or refinancing of outstanding obligations related to a project.

- (4) As security for the payment of the principal of, premium, if any, and interest of the special purpose revenue bonds issued for this project, to pledge, assign, hypothecate, or otherwise encumber all or any part of the revenues and receipts derived or to be derived by the department under the project agreement for the project for which such bonds are issued; to pledge and assign the interest and rights of the department under the project agreement or other agreement with respect to such project or such special purpose revenue bonds; and to pledge and assign any bond, debenture, note, or other evidence of indebtedness received by the department with respect to such project; or any combination of the foregoing.
- (5) To extend or renew any project agreement or any other agreement related thereto; provided that any such renewal or extension shall be subject to the approval of the governor unless made in accordance with provisions for such extension or renewal contained in a project agreement or related agreement theretofore approved by the governor.
- (6) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this part.

When the department finances or refinances a project by the issuance of special purpose revenue bonds as contemplated by this part, the State shall not exercise the power of eminent domain to acquire a project or any part thereof for lease or transfer to a project party, nor shall the State operate a project on behalf of a project party.

**§39A- Compliance with state and local law.** The issuance of special purpose revenue bonds with respect to any project under this part shall not relieve any project party or other user of such project from the laws, ordinances, and rules of the State or any political subdivision thereof, or any departments or boards thereof with respect to the construction, operation, and maintenance of projects, compliance with early childhood education and care laws or regulations, or zoning laws or regulations, obtaining of building permits, compliance with building and health codes and other laws, ordinances, or rules of similar nature pertaining to the project, and such laws shall be applicable to such party or such other user to the same extent it would be if the costs of the project were directly financed by the project party.

**§39A- Conditions precedent to negotiating and entering into a project agreement.** The department prior to entering into negotiations with any project party shall require that the State shall be reimbursed for any and all costs and expenses (direct or indirect) incurred by it in implementing and administering this part, as determined by the department, even though a project agreement may not be entered into and may further require the deposit of moneys with the department for such reimbursement. Any amount of such deposit in excess of the amount required to reimburse the State shall be returned by the department to the party which has made such deposit. The State shall not be required to pay to the project party any interest or earnings on such deposit.

The department shall not enter into any project agreement with respect to any project unless the department shall first find and determine either that the project party is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project, or otherwise, or that the obligations of the project party under the project agreement

will be unconditionally guaranteed by a person who is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project or otherwise.

**§39A- Project agreement.** No special purpose revenue bonds shall be issued unless at the time of issuance the department shall have entered into a project agreement with respect to the project for the financing or refinancing of which such revenue bonds are to be issued. Any project agreement entered into by the department shall contain provisions unconditionally obligating the project party:

- (1) To pay to the department during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the project is used or occupied by the project party, such sum or sums, at such time or times and in such amounts that will be at least sufficient:
  - (A) To pay the principal and interest on all special purpose revenue bonds issued with respect to the project as and when the same become due, including any premium payable upon any required redemption of such bonds;
  - (B) To establish or maintain such reserve, if any, as may be required by the instrument authorizing or securing the special purpose revenue bonds;
  - (C) To pay all fees and expenses (including the fees and expenses of the paying agents and trustees) incurred in connection with such special purpose revenue bonds; and
  - (D) To pay the expenses (direct or indirect) incurred by the State, as determined by the department, in administering such bonds or in carrying out the project agreement.
- (2) To operate, maintain, and repair the project as long as the same is used in the provision of early childhood education and care to the general public, and to pay all costs of such operation, maintenance, and repair.

Moneys received by the department pursuant to paragraph (1)(D) shall not be, nor be deemed to be, revenues of the project and shall be paid into the general fund of the State.

**§39A- Issuance of special purpose revenue bonds to finance projects.** In addition to the other powers which it may otherwise have, the department may issue special purpose revenue bonds to finance or refinance, the costs of facilities of, or for, or to loan the proceeds of such bonds to assist project parties. All revenue bonds issued under this part are special purpose revenue bonds and the provisions of part III of chapter 39 shall not apply thereto. All special purpose revenue bonds shall be issued in the name of the department and not in the name of the State.

The department in determining the cost of any project, may also include the following: financing charges, fees, and expenses of any trustee and paying agents for special purpose revenue bonds issued to pay the cost of such project; interest on such bonds and the expenses of the State in connection with such bonds and the project to be financed or refinanced from the proceeds of such bonds accruing or incurred prior to and during the period of construction and for not exceeding twelve months thereafter; amounts necessary to establish or increase reserves for the special purpose revenue bonds; the cost of plans, specifications, studies, surveys, and estimates of costs and of revenues; other expenses

incidental to determining the feasibility or practicability of the project; administration expenses; interest cost incurred by the project party with respect to the project prior to the issuance of the special purpose revenue bonds; fees and expenses incurred in connection with the refinancing of outstanding obligations; and such other costs, commissions, and expenses incidental to the construction, acquisition, reconstruction, renovation, rehabilitation, improvement, betterment, operation, or extension of the project, the financing or refinancing thereof, placing of same in operation, and the issuance of the special purpose revenue bonds, whether incurred prior to or after the issuance of such bonds.

The legislature finds and determines that the exercise of the powers vested in the department by this part constitutes assistance to not-for-profit corporations serving the general public and that the issuance of special purpose revenue bonds to finance or to refinance facilities of, or for, or to loan the proceeds of such bonds to assist, project parties, is in the public interest.

**§39A- Authorization of special purpose revenue bonds.** (a) Special purpose revenue bonds for each single project or multi-project program for early childhood education and care facilities serving the general public shall be authorized by a separate act of the legislature, by an affirmative vote of two-thirds of the members to which each house is entitled; provided that the legislature shall find that the issuance of such bonds is in the public interest. Special purpose revenue bonds issued pursuant to this part may be in one or more series for each project. The special purpose revenue bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding forty years from their date or dates, shall have such rank or priority and may be made redeemable before maturity at the option of the department, at such price or prices and under such terms and conditions, all as may be determined by the department. The department shall determine the form of the special purpose revenue bonds, including any interest coupons to be attached thereto, and the manner of execution of the special purpose revenue bonds, and shall fix the denomination or denominations of the special purpose revenue bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The special purpose revenue bonds may be issued in coupon or in registered form, or both, as the department may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The department may sell special purpose revenue bonds in such manner, either at public or private sale, and for such price as it may determine.

(b) Prior to the preparation of definitive special purpose revenue bonds, the department may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(c) Should any bond issued under this part or any coupon appertaining thereto become mutilated or be lost, stolen, or destroyed, the department may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of such mutilated bond or coupon, or in lieu of and in substitution for such lost, stolen, or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon has (1) paid the reasonable expense and charges in connection therewith; (2) in the case of a lost, stolen, or destroyed bond or coupon, has filed with the

department or its fiduciary evidence satisfactory to such department or its fiduciary that such bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof; and (3) has furnished indemnity satisfactory to the department.

(d) The department in its discretion may provide that CUSIP identification numbers shall be printed on such bonds. In the event such numbers are imprinted on any such bonds (1) no such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted, and (2) no liability shall attach to the department or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for such bonds, by reason of such numbers or any use made thereof, including any use thereof made by the department, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The department in its discretion may require that all costs of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this subsection, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

**§39A- Special purpose revenue bond anticipation notes.** Whenever the department shall have authorized the issuance of special purpose revenue bonds under this part, special purpose revenue bond anticipation notes of the department may be issued in anticipation of the issuance of such bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All special purpose revenue bond anticipation notes shall be authorized by the department, and the maximum principal amount of such notes shall not exceed the authorized principal amount of such bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the special purpose revenue bonds in anticipation of which the notes are issued and the revenues from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds in anticipation of which the notes are issued that has been authorized shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and the details of such notes shall be governed by the provisions of this part with respect to special purpose revenue bonds insofar as the same may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this section, shall mature within five years from the date of the original note.

**§39A- Powers with respect to and security for special purpose revenue bonds.** In order to secure the payment of any of the special purpose revenue bonds issued pursuant to this part, and interest thereon, or in connection with such bonds, the department shall have the power as to such bonds:

- (1) To pledge all or any part of the revenues derived by the department from the project agreement to the punctual payment of special purpose revenue bonds issued with respect to the project financed or refinanced from proceeds thereof, and interest thereon, and to covenant against thereafter pledging any such revenues or receipts to any other bonds or any other obligations of the department for any other purpose, except as otherwise stated in the law providing for the issuance of additional special purpose revenue bonds to be equally and ratably secured by a lien upon such revenues.

- (2) To pledge and assign the interest of the department under the project agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder.
- (3) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
- (4) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.
- (5) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (6) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, conditions, or obligation.
- (7) To designate a national or state bank or trust company within or without the State, incorporated in the United States, to serve as trustee for the holders of the special purpose revenue bonds and to enter into a trust indenture or trust agreement or indenture of mortgage with such trustee. The trustee may be authorized by the department to receive and receipt for, hold, and administer the proceeds of the special purpose revenue bonds issued for the project and to apply the same to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues derived by the department under the project agreement and to apply such revenues to the payment of the principal and interest on such bonds, or both, and any excess revenues to the payment of expenses incurred by the State in administering such bonds or in carrying out the project agreement. In the event that such trustee shall be appointed, any trust indenture or trust agreement or indenture of mortgage entered into by the department with the trustee may contain whatever covenants and provisions as may be necessary or convenient or desirable in order to secure such bonds. The department may pledge and assign to the trustee the interest of the department under the project agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder. The department may appoint the trustee to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the special purpose revenue bonds, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the department may deem necessary, advisable, or expedient, including without limitation the holding of the special purpose revenue bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.
- (8) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants and duties.
- (9) To make such covenants and do any and all acts and things as may be necessary or convenient or desirable in order to secure such



bonds, notwithstanding that such covenants, acts, or things may not be enumerated herein; it being the purpose hereof to give the department power to do all things in the issuance of such bonds and for their security that may be consistent with the Constitution of the State of Hawaii.

**§39A- Security for special purpose revenue bonds.** Special purpose revenue bonds shall be payable solely from the revenues derived by the department from payments made to the department under the project agreement or other supplemental agreements entered into with respect to the project, and shall be secured solely by such revenues and by the pledges and assignments authorized by this part. All special purpose revenue bonds of the same issue, subject to the prior and superior rights of outstanding bonds, claims, obligations, or mechanic's and materialman's liens, shall have a prior and paramount lien on the revenues derived from the project agreement with respect to the project, for which the bonds have been issued, over and ahead of all special purpose revenue bonds of any issue payable from the revenues which may be subsequently issued and over and ahead of any claims or obligations of any nature against the revenues subsequently arising or subsequently incurred; provided that the right and privilege may be reserved by the department in the trust indenture securing an issue of special purpose revenue bonds to subsequently issue additional special purpose revenue bonds, subject to legislative authorization of the issue as provided in section 39A- , or to permit the project party or another party on its behalf to incur debt, from time to time, payable from the revenues derived from such project agreement on a parity with the first issue of the special purpose revenue bonds and any subsequent issue of special purpose revenue bonds and other debt issued or incurred in accordance with the provisions of the trust indenture shall be secured equally and ratably with the first issue of the special purpose revenue bond without priority by reason of the date of sale, date of execution, or date of delivery, by a lien on the revenues in accordance with this part.

Notwithstanding any other provisions herein, all or part of the property constituting the project and all interest of the project party in the project and the revenues of the project party therefrom may be subjected to the present and future lien of any mortgage of the project party securing the project party's bonds, and the rights of the department and any trustee for the holders of the special purpose revenue bonds and the holders of the special purpose revenue bonds in the project and the revenues therefrom may be made subject to the prior lien of the project party's mortgage.

**§39A- Special purpose revenue bonds not a general obligation of the State.** No holder or holders of any special purpose revenue bonds issued under this part shall ever have the right to compel any exercise of taxing power of the State to pay such bonds or the interest thereon and no moneys other than the revenues pledged to such bonds shall be applied to the payment thereof. Each special purpose revenue bond issued under this part shall recite in substance that such bond, including interest thereon, is not a general obligation of the State and is payable solely from the revenues pledged to the payment thereof, and that such bond is not secured directly or indirectly by the full faith and credit or the general credit of the State or by any revenues or taxes of the State other than the revenues specifically pledged thereto.

**§39A- Validity of special purpose revenue bonds.** The special purpose revenue bonds bearing the signature or facsimile signature of officers on the

date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor all the persons whose signatures appear thereon shall have ceased to be officers of the department. The special purpose revenue bonds shall contain a recital that they are issued pursuant to this part, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

**§39A- Use of revenues derived from project agreement.** The department shall have the right to appropriate, apply, or expend the revenues derived with respect to the project agreement for a project for the following purposes:

- (1) To pay when due all special purpose revenue bonds, premium, if any, and interest thereon, for the payment of which the revenues are or have been pledged, charged, or otherwise encumbered, including reserves therefor; and
- (2) To the extent not paid by the project party to provide for all expenses of administration, operation, and maintenance of the project, including reserves therefor.

Unless and until adequate provision has been made for the foregoing purposes, the department shall not transfer the revenues derived from the project agreement to the general fund of the State.

**§39A- Special purpose revenue bonds exempt from taxation.** Special purpose revenue bonds and the income therefrom issued pursuant to this part shall be exempt from all state, county, and municipal taxation except inheritance, transfer, and estate taxes.

**§39A- Exemption from taxation of department property.** All revenues derived by the department from any project or under the project agreement pertaining thereto shall be exempt from all state, county, and municipal taxation. Any right, title, and interest of the department in any project shall also be exempt from all state, county, and municipal taxation. Except as otherwise provided by law, the interest of the project party or user of such project in a project or under the project agreement or related agreement shall not be exempt from taxation to a greater extent than it would be if the costs of the project were directly financed by the project party or other user.

**§39A- Refunding special purpose revenue bonds.** The legislature, by act enacted by an affirmative vote of two-thirds of the members to which each house is entitled, may authorize the issuance of refunding special purpose revenue bonds for the purpose of refunding any special purpose revenue bonds then outstanding and issued under this part, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. The legislature is further authorized to provide, by act finally enacted by an affirmative vote of two-thirds of the members to which each house is entitled, for the issuance of a single issue of special purpose revenue bonds for the combined purposes of (1) financing or refinancing the cost of a project or improvement or expansion thereof, and (2) refunding special purpose revenue bonds which shall theretofore have been issued under this part and shall then be outstanding, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. Nothing in this section shall require or be deemed to require the legislature to elect to redeem or prepay special purpose revenue bonds being refunded, or to redeem or prepay special purpose revenue

bonds being refunded which were issued in the form customarily known as term bonds in accordance with any sinking fund installment schedule specified in any law authorizing the issuance thereof, or, in the event the department elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates. The issuance of such special purpose revenue bonds, the maturities and other details thereof, and the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the department with respect to the same, shall be governed by the foregoing provisions of this part insofar as the same may be applicable.

**§39A- Status of special purpose revenue bonds under Uniform Commercial Code.** Notwithstanding any of the provisions of this part or any recitals in any special purpose revenue bonds issued under this part, all such special purpose revenue bonds shall be deemed to be investment securities under the Uniform Commercial Code, chapter 490, subject only to the provisions of the special purpose revenue bonds pertaining to registration.

**§39A- Special purpose revenue bonds as legal investments and lawful security.** The special purpose revenue bonds issued pursuant to this part shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, credit unions, fiduciaries, trustees, guardians, and for all public funds of the State or other political corporations or subdivisions of the State. Such special purpose revenue bonds shall be eligible to secure the deposit of any and all public funds of the State and any and all public funds of counties or other political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto.

**§39A- Access to and public disclosure of financial records of project party.** (a) Each project party with a project agreement with the department shall allow the department full access to its financial records. Upon the request of the department for the examination of any such financial records, the project party shall allow the department to examine the requested records within a reasonably prompt time from the date of the request. If the department requests copies of the records, the project party shall provide the copies.

(b) To provide the public with full knowledge of the use of the proceeds and benefits derived from special purpose revenue bonds issued under this part, the department shall require each project party with a project agreement with the department to make available to the public all relevant financial records which pertain to the use of or savings resulting from the use of special purpose revenue bonds.

(c) The department shall adopt rules under chapter 91 for the purpose of this section.

**§39A- Estimate of benefits.** (a) Each project party with a project agreement with the department shall estimate the benefits derived from the use of the proceeds of special purpose revenue bonds. The benefits estimated shall be based on a comparison between the use of the proceeds of the special purpose revenue bonds instead of other means of financing and shall be in terms of dollars projected to be or actually saved by consumers of the services of the project party. The format of and method for determining the estimates shall be established by the department and shall be uniform for each project party.

(b) To promote public understanding of the role played by special purpose revenue bonds in providing less costly services by a project party to the general public, the department shall take appropriate steps to ensure public access to and scrutiny of the estimates determined under subsection (a).

(c) The department shall adopt rules under chapter 91 for the purposes of this section.

**§39A- Construction of this part.** The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law. Insofar as the provisions of this part are inconsistent with the provisions of any other law, this part shall be controlling.

**§39A- Sunset provision.** After June 30, 2015, no new special purpose revenue bonds shall be issued under this part.”

SECTION 7. Constitutional material to be repealed is bracketed. New constitutional material is underscored.

SECTION 8. Sections 2, 3, 4, and 5 of this Act shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii; and section 6 of this Act, upon its approval, shall take effect upon ratification of the constitutional amendments proposed by sections 2 and 4 of this Act.

(Approved July 6, 1994.)

## ACT 281

H.B. NO. 3447

A Bill for an Act Relating to Education.

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

### PART I

SECTION 1. Chapter 37, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§37-A University of Hawaii; carryover of funds.** (a) The University of Hawaii may retain not more than five per cent of any appropriation of general funds for operating purposes at the close of each fiscal year. The funds retained by the University of Hawaii shall not lapse until June 30 of the following fiscal year. The University of Hawaii shall report to the director of finance, by the close of each fiscal year, the total amount of funds that will carry over to the following fiscal year from each appropriation and shall submit a copy of this report to the legislature not less than twenty days prior to the convening of the next regular session of the legislature.

(b) Any appropriation retained in accordance with this section may be used by the University of Hawaii to supplement the appropriation for any program of the University of Hawaii; provided that the retention of an appropriation shall not be used as the basis for reducing the future budget requests or allotments of the University of Hawaii unless the University of Hawaii requests such a reduction.

**§37-B Fiscal flexibility; suspension by governor.** When it has been determined by the governor that any allowance or exception conferred upon the University of Hawaii by sections 37-34, 37-35, 37-36, 37-37, and 37-74, will impair the governor's ability to promote and ensure the economic and efficient management of the State's financial resources, that allowance or exception may be suspended by the governor for not more than twelve months in any one fiscal year. The governor shall report the suspension of any such allowance or exception to the legislature not more than thirty days after its institution."

SECTION 2. Section 37-32, Hawaii Revised Statutes, is amended to read as follows:

**"§37-32 Quarterly allotment periods.** Except as provided in [section] sections 37-41.5[,] and 37-A, no officer, department, or establishment shall expend or be allowed to expend during any fiscal year any sum for any purpose not specifically authorized by the legislature for expenditure during that particular fiscal year, and not made available pursuant to the allotment system provided for in sections 37-31 to 37-41. For the purposes of the allotment system, each fiscal year shall be divided into four quarterly allotment periods, beginning, respectively, on the first days of July, October, January, and April; provided that in any case where the quarterly allotment period is impracticable, the director of finance may prescribe a different period suited to the circumstances, not exceeding six months nor extending beyond the end of the fiscal year."

SECTION 3. Section 37-41, Hawaii Revised Statutes, is amended to read as follows:

**"§37-41 Appropriations to revert to state treasury; exceptions.** Unless otherwise provided by [section] sections 37-41.5, 37-A, or any other law, every appropriation or part thereof of any kind made subject to sections 37-31 to 37-40, remaining unexpended and unencumbered at the close of any fiscal year shall lapse and be returned to the general fund in the manner prescribed in section 40-66."

## PART II

SECTION 4. Act 320, Session Laws of Hawaii 1986, as amended by Act 283, Session Laws of Hawaii 1987, and Act 370, Session Laws of Hawaii 1989, is amended by amending section 8 to read as follows:

"SECTION 8. This Act shall take effect on July 1, 1986[, and be repealed as of June 30, 1994; provided that on repeal sections 37-34, 37-35, 37-36, 37-37, and 37-74, Hawaii Revised Statutes, are reenacted in the form in which they read on June 30, 1986]."

SECTION 5. Section 37-34, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Before appropriations for the University of Hawaii [or the department of education] become available to the university [or the department of education], the governor, with the assistance of the director of finance, as may be necessary, shall establish allotment ceilings for each source of funding of all of

the appropriations of the University of Hawaii [and the department of education] for each allotment period and shall advise the university [and the department of education] of these determinations.”

SECTION 6. Section 37-35, Hawaii Revised Statutes, is amended to read as follows:

“**§37-35 Estimated expenditures; approval.** The director of finance shall review all estimates submitted under section 37-34 and, having due regard for [the];

- (1) The probable further needs of the department or establishment for the remainder of the term for which the appropriation was made[, the];
- (2) The terms and purposes of the appropriation, the progress of collection of revenues, and condition of the treasury[.]; and
- (3) [the] The probable receipts and total cash requirements for the ensuing quarter, shall approve, increase, or reduce the amount of the estimate;

provided that the director of finance shall approve the estimates submitted by the University of Hawaii [or the department of education] when [the];

- (1) The sum of the estimates for each funding source does not exceed the applicable allotment ceilings established by the governor under section 37-34[, the];
- (2) The progress of collection of revenues, the condition of the treasury, and the probable receipts and total cash requirements for the ensuing quarter permit[.]; and
- (3) [all] All other legal requirements are satisfied.

The director shall act promptly upon all estimates and notify each department or establishment of its allotment, and shall notify the comptroller.”

SECTION 7. Section 37-36, Hawaii Revised Statutes, is amended to read as follows:

“**§37-36 Modification.** The director of finance [may], at any time, may modify or amend any previous allotment upon application of, or upon notice to, the department or establishment concerned; provided that [for];

- (1) For the University of Hawaii [or the department of education], the director of finance may modify or amend any previous allotment only upon application of or notice to the university [or the department of education, or upon notice to the university or the department of education], and upon public declaration, which shall be made ten days prior to the modification or amendment taking effect; [provided further that the]
- (2) The modification or amendment shall be made only to avoid an illegal result or in anticipation of a revenue shortfall; [provided further that no]
- (3) No deficit or undue reduction of funds to meet future needs of the department or establishment will result [therefrom;] from the modification or amendment; and [provided further that no]
- (4) No modification or amendment [reduces] shall reduce an allotment below the amount required to meet valid obligations or commitments previously incurred against the allotted funds.”

SECTION 8. Section 37-37, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For the University of Hawaii [or the department of education], when the director of finance determines at any time that the probable receipts from taxes or any other sources for any appropriation will be less than was anticipated, and that consequently the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor, the director shall advise the governor of the situation, and the governor shall redetermine the allotment ceiling for the affected source or sources of funding pursuant to section 37-34, and shall advise the university [or the department of education, as applicable,] and make a public declaration ten days prior to the effective date of the redetermination. The university [or the department of education, within], not more than twenty days [of] after the governor’s notification, shall submit revised estimates consistent with the governor’s redetermination to the director of finance[; otherwise,]. Otherwise, the director of finance shall modify, amend, or reduce any allotment of the university [or the department of education, as applicable,] to comply with the governor’s redetermination; provided that no reduction [reduces] shall reduce any allotted amount below the amount required to meet valid obligations or commitments previously incurred against the allotted funds.”

SECTION 9. Section 37-74, Hawaii Revised Statutes, is amended by amending subsections (c), (d), and (e) to read as follows:

“(c) The department of budget and finance shall:

- (1) Review each operations plan to determine:
  - (A) [that] That it is consistent with the policy decisions of the governor and appropriations by the legislature[.];
  - (B) [that] That it reflects proper planning and efficient management methods[.]; and
  - (C) [that] That appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year;

provided that the department of budget and finance shall review the operations plan submitted by the University of Hawaii [or the department of education, as applicable,] solely for consistency with the allotment ceilings established by the governor under section 37-34, appropriations by the legislature, and the status of revenues to support operations plans for all state programs[.];

- (2) Approve the operations plan if satisfied that it meets the requirements under paragraph (1). Otherwise, the department of budget and finance shall require revision of the operations plan in whole or in part[.]; and
- (3) Modify or withhold the planned expenditures at any time during the appropriation period if the department of budget and finance finds that [such] the expenditures are greater than those necessary to execute the programs at the level authorized by the governor and the legislature, or that state receipts and surpluses will be insufficient to meet the authorized expenditure levels; provided that the planned expenditures for the University of Hawaii [or the department

of education, as applicable,] may be modified or withheld only in accordance with sections 37-36 and 37-37.

(d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization; provided that [authorized];

- (1) Authorized transfers or changes, when made, shall be reported to the legislature; [provided further that the]
- (2) The University of Hawaii [and the department of education, within their respective departments,] shall have the flexibility to transfer general fund appropriations for the operating cost category among programs with the same or similar objectives, among cost elements in a program, and between quarters, as applicable, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources; and [provided further that the]
- (3) The university [and the department of education, within their respective departments,] shall account for each transfer implemented under this subsection in quarterly reports to the governor and annual reports at the end of each fiscal year to the legislature and the governor, which shall be prepared in the form and manner prescribed by the governor and shall include information on the sources and uses of the transfer.

(e) The University of Hawaii [and the department of education, within their respective departments,] shall not use current appropriations in any manner that would result in the expansion of programs or the initiation of new programs [which] that may require any future increase in the commitment of state resources, without the specific prior concurrence of the legislature and advice of the governor.”

### PART III

SECTION 10. In codifying the new sections added to chapter 37, Hawaii Revised Statutes, by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in the new sections' designations in this Act.

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 12. This Act shall take effect upon its approval; provided that:

- (1) Sections 1, 2, and 3 shall be repealed two years after the approval of this Act; and
- (2) On repeal of Sections 1, 2, and 3 of this Act, Sections 37-32 and 37-41, Hawaii Revised Statutes, are reenacted in the form in which they read on the day before the approval of this Act.

(Approved July 6, 1994.)

#### Note

1. Edited pursuant to HRS §23G-16.5.



A Bill for an Act Relating to District Court Judges.

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

SECTION 1. Section 604-2, Hawaii Revised Statutes, is amended to read as follows:

**“§604-2 Appointment and tenure of district judges; per diem district judges.** [District judges shall be appointed by the] (a) The chief justice of the supreme court[.], with the consent of the senate, shall appoint district judges. Each judge shall reside in the judicial circuit for which the judge is appointed and shall have been an attorney licensed to practice in all the courts of the State for at least five years. District judges shall hold office for a term of six years and until their successors are appointed and qualified; provided that any judge may be reprimanded, disciplined, suspended with or without salary, relieved, or removed from office for misconduct or disability, as provided by rules adopted by the supreme court.

(b) The chief justice shall appoint district judges to serve on a per diem basis and as may be necessary to provide auxiliary judicial functions in the several districts of the State. [Such per] Per diem district judges may engage in the private practice of law during their term of service[. Such judges], and shall receive per diem compensation for the days on which actual service is rendered based on the monthly rate of compensation paid to a district court judge. For the purpose of determining per diem compensation in this section, a month shall be deemed to consist of twenty-one days.”

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

SECTION 3. This Act shall take effect upon its approval and upon ratification of a constitutional amendment that requires senate confirmation of appointments of district court judges.

(Approved July 6, 1994.)

A Bill for an Act Relating to Hawaiian Affairs.

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

SECTION 1. The purpose of this Act is to improve the administration of the office of Hawaiian affairs (OHA) by giving OHA the authority to issue revenue bonds secured by the moneys received by OHA from the twenty per cent share of revenue from the public land trust.

OHA was established as a body corporate and as a separate entity independent of the executive branch. As part of its general powers, the OHA board of trustees is required to:

- (1) Manage, invest, and administer the proceeds from the sale or other

disposition of lands, natural resources, minerals, and income derived from whatever sources for native Hawaiians and Hawaiians, including all moneys received by the office equivalent to that pro rata portion of the revenue derived from the public land trust;

- (2) Collect, receive, deposit, withdraw, and invest money and property on behalf of the office;
- (3) Formulate policy relating to the affairs of native Hawaiians and Hawaiians, provided that such policy shall not diminish or limit the benefits of native Hawaiians under Article XII, section 4, of the State Constitution; and
- (4) Determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to the office of Hawaiian affairs.

Further, the 1978 Constitutional Convention intended that "the office could have maximum control over its budget, assets and personnel", as stated in Standing Committee Report No. 59, issued August 29, 1978. It is clear that the office was established to have full control over the administration of its trust funds "for the betterment of conditions of native Hawaiians". Included in this statutory and fiduciary duty is the responsibility to administer the trust funds in the best interest of the trust beneficiaries.

This Act enables the office to maximize the trust funds without eroding the trust corpus by providing another alternative to leverage the trust funds. The Act requires that the revenue bonds authorized by OHA be issued by and on behalf of OHA's board of trustees and not by or on behalf of the State. In addition, other stipulations provide for the exclusion of these revenue bonds from the State's debt ceiling. This Act further provides that the issuance of OHA's revenue bonds has no effect on the State's power to issue general obligation bonds or the funded debt of any political subdivision under Article VII, section 12, of the Hawaii Constitution.

SECTION 2. Chapter 10, Hawaii Revised Statutes, is amended as follows:

1. By designating sections 10-1 to 10-16 as part I and inserting a title before section 10-1 to read as follows:

**"PART I. GENERAL PROVISIONS"**

2. By adding a new part to be appropriately designated and to read as follows:

**"PART . REVENUE BONDS"**

**§10-A Definitions.** Whenever used in this part:

"Office project" or "project" means:

- (1) The lawful acquisition of any property, real, personal, or mixed, tangible or intangible, or any interests therein, pursuant to section 10-4(2);
- (2) Any capital improvement projects on lands held by the office pursuant to section 10-4(2) or in the public land trust, including but not limited to the construction of buildings and other improvements; infrastructure development, and other enterprises which are

acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by or on behalf of the office;

- (3) Pilot projects, demonstrations, or both, where those projects or demonstrations fulfill criteria established by the board, pursuant to section 10-5(7); and
- (4) Any other projects determined by rules adopted by the board pursuant to chapter 91 to be for the betterment of native Hawaiians and are consistent with the purposes of this chapter.

“Reserves” means reserves required or permitted in the covenants in the resolution or resolutions of the board authorizing the obtaining of loans or issuance of revenue bonds under this part.

“Revenue bonds” means revenue bonds, interim certificates, notes, debentures, or other evidence of indebtedness of the board authorized by or issued under this part.

**§10-B Powers of the board.** In addition to the powers which it now possesses, the board shall have power to:

- (1) Prescribe and collect rents, fees, and charges for the use of or services furnished by any office project or the facilities thereof;
- (2) Issue revenue bonds to finance in whole or in part the cost of construction or maintenance, or both, of any office project;
- (3) Pledge to the punctual payment of such revenue bonds and interest thereon, the revenue of the office project or projects for the construction or maintenance of which the bonds have been issued, or the office’s revenue in an amount sufficient to pay such bonds and interest as the same become due and to create and maintain reasonable reserves therefor; and
- (4) Advance such moneys of the office, not otherwise required, as are necessary to pay the expenses incurred in making the preparations for the initial issuance of revenue bonds under this part, and to take any other action necessary or proper for carrying into execution and administering this part, including providing for the full utilization of office projects in every way conducive to the furtherance of any or all purposes of the office.

**§10-C Authorization of office projects and revenue bonds.** Authorization of construction, maintenance, or both, of an office project or projects and authorization for issuance of revenue bonds under this part shall be by resolution or resolutions of the board. The resolution may be adopted at the same meeting at which it is introduced by a majority of all the members of the board then in office and shall take effect immediately upon adoption.

**§10-D Revenue bond anticipation notes.** In anticipation of the issuance under this part of revenue bonds authorized by the board and of the receipt of the proceeds of sale of the bonds, the board shall have power to issue and sell bond anticipation notes for the purposes for which the bonds have been authorized, the maximum principal amount of which shall not exceed the authorized principal amount of the bonds. The notes shall be payable solely from and secured solely by the proceeds of the sale of the bonds in anticipation of which the notes are issued and the revenues from which would be payable and by which would be secured the bonds; provided that to the extent the principal of the notes is paid from moneys other than the proceeds of the sale of the bonds, the maximum

amount of bonds in anticipation of which the notes are issued that has been authorized shall be reduced by the amount of the notes so paid. The issuance of the notes and the details thereof shall be governed by this part with respect to bonds as applicable; provided that:

- (1) Each note, together with all renewals and extensions, or refundings by other notes issued under this section, shall mature within five years from the date of the original note; and
- (2) The notes may be sold at public or private sale, as the board may determine.

**§10-E Revenue bonds.** Revenue bonds shall be issued in the name of the board, may be in one or more series, may be in the denomination or denominations, may bear such date or dates, may mature at such time or times not exceeding fifty years from their respective dates, may be payable at such place or places within or without the State, may carry such registration privileges as to principal alone or as to both principal and interest, may be subject to such terms or redemption with or without premium, may be executed in such manner, may contain such terms, covenants, and conditions, and may be in such form, either coupon or registered with privilege of exchange from one form to another, as the resolution authorizing the issuance of the bonds, or subsequent resolutions may provide.

Revenue bonds may be sold at private sale to the United States, or any agency, instrumentality, or corporation thereof, to the State or any political subdivision, agency, instrumentality, or corporation thereof, or to any person or group of persons offering to purchase all or a major portion of a particular issue or series. Unless sold at private sale as herein provided, revenue bonds shall be sold at public sale after publication of a notice of such sale at least once, the date of publication to be at least five days prior to the date of the sale, and the publication shall be made in a newspaper published and of general circulation in the State and in a financial newspaper published in either of the cities of New York, Chicago, or San Francisco. The revenue bonds shall be sold for not less than ninety-eight per cent of the principal amount thereof. Pending the preparation of definitive revenue bonds, interim receipts or temporary bonds may be issued and delivered to the purchasers of the bonds in such form and containing such provisions as the board may determine. Revenue bonds, interim receipts, and temporary bonds shall be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code, chapter 490.

It shall be legal for the State and any of its political subdivisions, or any political or public corporation, including the employees' retirement system of the State or any instrumentality of the State or any insurance company or building and loan association, or any savings bank or trust company, or any bank or other financial institution operating under the laws of this State, or for any personal representative, guardian, trustee, or other fiduciary, or any educational, charitable, or eleemosynary institution, to invest their funds, and moneys in their custody in revenue bonds issued under this part.

**§10-F CUSIP numbers.** The board in its discretion may provide that CUSIP identification numbers shall be imprinted on revenue bonds issued under this part. In the event such numbers are imprinted on any such bonds:

- (1) No such number shall constitute a part of the contract evidenced by the particular bonds upon which it is imprinted; and
- (2) No liability shall attach to the board or any officer or agent thereof or the State or any officer thereof, including any fiscal agent, paying

agent, or registrar for such bonds, by reason of such numbers or any use made thereof, including any use thereof made by the board, the State, any such officer or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use.

The board in its discretion may require that all cost of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this section, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

**§10-G Covenants in resolution authorizing revenue bonds.** Any resolution or resolutions authorizing the issuance of revenue bonds under this part may contain covenants as to:

- (1) The purpose or purposes to which the proceeds of the sale of revenue bonds may be applied; the use and disposition of such proceeds; the investment thereof pending such use and disposition; and the use and disposition of the income from such investment;
- (2) The use and disposition of the revenue of the office project or projects for the construction or maintenance of which the revenue bonds are issued are to be included; the use and disposition of the revenue of all office projects, and of the revenues of the office, including the creation and maintenance of reserves; the investment of such revenues and of the moneys in such reserves; and the use and disposition of the income from such investments;
- (3) The minimum amount of revenues to be produced by the office projects or the office, over and above the amount required to be produced by the first sentence and paragraphs (1) to (3) of section 10-K;
- (4) The use and disposition of the proceeds of the sale of any office project, or part thereof;
- (5) The construction and maintenance of any office project other than the office project or projects for the construction or maintenance of which revenue bonds are issued;
- (6) The issuance of other or additional revenue bonds payable either from the revenue of the office project or projects for the construction or maintenance of which the revenue bonds are issued or the revenue of the office or payable from the revenue of other office projects;
- (7) The maintenance of the office project, including the creation by the board of such supervisory positions, which shall not be subject to chapters 76 and 77, as are necessary to facilitate the issuance of revenue bonds by ensuring the adequacy of revenues;
- (8) The insurance to be carried on office projects and the use and disposition of insurance moneys;
- (9) Books of account and inspection and audit thereof;
- (10) A procedure by which the terms and conditions of the bond resolution or indenture may be subsequently amended or modified with the consent of the board, the vote or written assent of the holders of bonds or any proportion of the holder, or any trustee thereof; and
- (11) The terms and conditions upon which the holders of bonds evidencing the obligation to repay loans, or any proportion of the holders, or any trustee thereof, shall be entitled to the appointment of a receiver

by any court of competent jurisdiction, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of the office project or projects, maintain them, prescribe rents, fees, and charges, and collect, receive, and apply all revenue thereafter arising therefrom in the same manner as the board itself might do, but the receiver shall have no power, nor be granted any power, to utilize, or permit the utilization of, any office project other than in a manner consistent with and in furtherance of the purposes of the office.

This part and any such resolution or resolutions shall be a contract with the holders of bonds issued under this part, and the duties of the board and any such resolution or resolutions shall be enforceable by any bondholder by mandamus or other appropriate suit, action, or proceeding in any court of competent jurisdiction.

**§10-H Validity of bonds.** Revenue bonds issued under this part shall bear the signatures of the chairperson of the board and the administrator, either of which signatures may be a lithographed or engraved facsimile of the signature provided that at least one of the signatures is a manual signature, and shall be sealed with the seal of the board or in lieu thereof shall bear a lithographed or engraved facsimile of such seal. The coupons pertaining to the revenue bonds shall be executed with the lithographed or engraved facsimile signatures of the chairperson of the board and the administrator. Revenue bonds bearing the signature of officers in office at the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon shall have ceased to be officers. The validity of the bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the construction or maintenance of the office project or projects for which the bonds were issued. The resolution authorizing the issuance of revenue bonds may provide that the bonds shall contain a recital that they are issued pursuant to this part, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

**§10-I Bonds.** The resolution or resolutions authorizing the issuance of revenue bonds may pledge to the payment thereof all or any part of the revenue of an office project or projects or the office, and the pledge shall constitute a lien on the revenue of such project or projects to the extent and in the manner in the resolution or resolutions provided prior and paramount to any claim or other obligation of any nature against the revenue so pledged subsequently arising or subsequently incurred. The board may provide in the resolution or resolutions that all revenue bonds of the same issue shall be equally and ratably secured without priority by reason of number, date, or maturity of the bonds, date of sale, execution, or delivery thereof. Any pledge of revenues contained in any resolution or resolutions adopted under this part shall be valid and binding from and after the adoption of the resolution or resolutions without physical delivery of the revenues therein pledged or the necessity of any further action by the State or the board, or any officer or agent of either the State or board.

**§10-J Payment and security of revenue bonds; revenue bonds not a debt of the State.** Revenue bonds issued under this part shall be payable solely from and secured solely by the revenues of the office project or projects or office

pledged to the payment thereof, and such revenues shall be applied to such payment in accordance with the provisions of this part and the resolution or resolutions authorizing the issuance of the revenue bonds. No holder or holders of any revenue bonds issued under this part shall have the right to compel any exercise of the taxing power of the State to pay such bonds, or interest thereon. Each revenue bond shall recite in substance that the bond, including interest thereon, is payable solely from and secured solely by the revenue pledged to the payment thereof, and that the bond does not constitute an indebtedness of the State within the meaning of any limitation of law.

**§10-K Office of Hawaiian affairs projects to be self-supporting.** The board shall impose and collect rates, rents, fees, and charges for the use or enjoyment and services of the facilities of each office project, and shall revise such rates, rents, fees, and charges from time to time whenever necessary, so that all office projects shall be self-supporting. The rates, rents, fees, and charges prescribed shall be such as will produce revenue at least sufficient to:

- (1) Pay the cost of maintenance of the office project or projects, including reserves therefor;
- (2) Pay when due all bonds and interest thereon, for the payment of which the revenue is or has been pledged, charged, or otherwise encumbered, including reserves therefor;
- (3) Reimburse the general fund of the State for any bond requirements on general obligation bonds issued for an office project or projects to the extent required by law; and
- (4) Carry out all covenants and provisions of the resolution or resolutions authorizing the issuance of revenue bonds.

Neither this section nor any other section of this part shall preclude the making of appropriations to the board, the acceptance of gifts by the board, or the use of funds derived from the sale of stocks, bonds, or other assets in the possession of the board to pay all or part of the costs of construction, of maintenance, or both, of any or all office projects.

All moneys received pursuant to this section shall be administered as trust funds, as provided by this chapter, and in separate accounts designated for each office project.

**§10-L Office of Hawaiian affairs project and bonds exempt from taxation.** The property and revenue of any office project shall be exempt from all state, county, and municipal taxation and assessments. Revenue bonds issued under this part, and all income therefrom shall be exempt from all state, county, and municipal taxation except inheritance, transfer, and estate taxes.

**§10-M Powers herein, additional to other powers.** The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other general, special, or local law. Insofar as this part is inconsistent with any other general, special, or local law this part shall be controlling.

**§10-N Funding and refunding bonds; authorization and purpose.** The board may provide for the issuance of revenue bonds (herein referred to as refunding bonds) for the purpose of refunding, redeeming, or retiring at or at any time before maturity or at any time before the first date upon which the outstanding bonds to be refunded may be called for redemption, any bonds issued under this part, including any bonds which the holders may consent to be paid or

refunded even though the bonds are not matured or are not callable or redeemable, and for the purpose of funding indebtedness not evidenced by revenue bonds but which was incurred for purposes for which revenue bonds may be issued pursuant to this part. The rate or rates of interest borne by the refunding bonds shall not be affected or limited by the rate or rates of interest borne by the bonds to be refunded or the indebtedness to be funded. All provisions of this part applicable to the issuance of revenue bonds shall be complied with in the issuance of refunding bonds. Refunding bonds shall be sold as provided in section 10-E, or the board may, in its discretion, provide for the exchange of refunding bonds for a like principal amount of outstanding bonds for the refunding of which the issuance of such refunding bonds has been authorized, whether or not the interest rate on the refunding bonds is higher than the interest rate on the bonds refunded thereby.

**§10-O Funding and refunding bonds; principal amount.** Refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all bonds or indebtedness to be funded or refunded thereby, and for the payment of all expenses paid or incurred in connection with the calling, redeeming, retiring, or paying of such indebtedness or outstanding bonds, and the issuance of such refunding bonds. The expenses may include the amount necessary for the payment of interest upon the indebtedness to be funded or the bonds to be refunded to the maturity or redemption date thereof, the amount necessary for the payment of interest upon the refunding bonds from the date of delivery thereof to the date upon which the principal of the outstanding bonds to be refunded will be paid whether at maturity or pursuant to a call for redemption thereof, or pursuant to agreement with the holders thereof, plus in any case the amount of the premium, if any, required to be paid in order to call or retire the bonds to be required.

**§10-P Limitation of authority.** Notwithstanding any other provision to the contrary, nothing in this part shall be construed to authorize the board to incur any indebtedness contrary to Article VII, sections 12 and 13, of the Constitution of the State or to incur any indebtedness which would not qualify for exclusion from the total indebtedness of the State under section 13(2), Article VII."

SECTION 3. Section 10-4, Hawaii Revised Statutes, is amended to read as follows:

**"[[§10-4]] Office of Hawaiian affairs; established; general powers.** There shall be an office of Hawaiian affairs constituted as a body corporate which shall be a separate entity independent of the executive branch. The office, under the direction of the board of trustees, shall have the following general powers:

- (1) To adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;
- (2) To acquire in any lawful manner any property, real, personal, or mixed, tangible or intangible, or any interest therein; to hold, maintain, use, and operate the same; and to sell, lease, or otherwise dispose of the same at such time, in such manner and to the extent necessary or appropriate to carry out its purpose;
- (3) To determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to the office of Hawaiian affairs;



- (4) To enter into and perform such contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, or with the State, or with any political subdivision thereof, or with any person, firm, association, or corporation, as may be necessary in the conduct of its business and on such terms as it may deem appropriate;
- (5) To execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers; [and]
- (6) To issue revenue bonds pursuant to this chapter in such principal amounts as may be authorized from time to time by law to finance the cost of an office project as authorized by law and to provide for the security thereof as permitted by this chapter;
- (7) To lend or otherwise apply the proceeds of the bonds issued for an office project either directly or through a trustee or a qualified person for use and application in the acquisition, construction, installation, or modification of an office project, or agree with the qualified person whereby any of these activities shall be undertaken or supervised by that qualified person or by a person designated by the qualified person;
- (8) With or without terminating a project agreement, to exercise any and all rights provided by law for entry and re-entry upon or to take possession of an office project at any time or from time to time upon breach or default by a qualified person under a project agreement, including any action at law or in equity for the purpose of effecting its rights of entry or re-entry or obtaining possession of the project or for the payments of rentals, user taxes, or charges, or any other sum due and payable by the qualified person to the office pursuant to the project agreement; and
- [(6)] (9) To take such actions as may be necessary or appropriate to carry out the powers conferred upon it by law."

SECTION 4. In codifying the new part added to chapter 10, Hawaii Revised Statutes, by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for letters used in the designation of those new sections.

SECTION 5. All acts passed by the legislature during this Regular Session of 1994, whether enacted before or after the effective date of this Act, shall be amended to conform with this Act unless such acts specifically provide that this Act is being amended.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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

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

(Approved July 6, 1994.)

## PROPOSED CONSTITUTIONAL AMENDMENTS

See also Act 272, this volume, at page 840 for proposed constitutional amendment to Article X, §§2, 3 and Act 280, at page 875 for proposed constitutional amendment to Article VII, §12 and Article X, §1.

### S.B. NO. 2182

A Bill for an Act Proposing an Amendment to Article VI, Section of the Hawaii Constitution, to Provide for Consent of the Senate to the Appointment of District Court Judges.

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

SECTION 1. The purpose of this Act is to propose an amendment to Article VI, Section 3, of the Constitution of the State of Hawaii to provide for consent by the senate to the appointment of district court judges. This will allow a public hearing, and open public input and comment on the qualifications of a nominee for a district court judicial position.

SECTION 2. Section 3 of Article VI of the Constitution of the State of Hawaii is amended to read as follows:

#### “APPOINTMENT OF JUSTICES AND JUDGES

**Section 3.** The governor [shall], with the consent of the senate, shall fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court and circuit courts, by appointing a person from a list of not less than six nominees for the vacancy, presented to the governor by the judicial selection commission.

If the governor fails to make any appointment within thirty days of presentation, or within ten days of the senate’s rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this, the commission shall make the appointment from the list, without senate consent.

The chief justice, with the consent of the senate, shall fill a vacancy in the district courts by appointing a person from a list of not less than six nominees for the vacancy presented by the judicial commission. If the chief justice fails to make the appointment within thirty days of presentation, or within ten days of the senate’s rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list[.] with the consent of the senate. The senate must hold a public hearing and vote on each appointment within thirty days of any appointment. If the senate fails to do so, the nomination shall be returned to the commission and the commission shall make the appointment from the list without senate consent. The chief justice shall appoint per diem district court judges as provided by law.

# PROPOSED CONSTITUTIONAL AMENDMENTS

## QUALIFICATIONS FOR APPOINTMENT

Justices and judges shall be residents and citizens of the State and of the United States, and licensed to practice law by the supreme court. A justice of the supreme court, a judge of the intermediate appellate court and a judge of the circuit court shall have been so licensed for a period of not less than ten years preceding nomination. A judge of the district court shall have been so licensed for a period of not less than five years preceding nomination.

No justice or judge shall, during the term of office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State or its political subdivisions.

## TENURE; COMPENSATION; RETIREMENT

The term of office of justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods as provided by law. At least six months prior to the expiration of a justice's or judge's term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of an intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew the term of office of such justice or judge for the period provided by this section or by law.

There shall be a salary commission to review and recommend salaries for justices and judges of all state courts. Justices and judges shall have salaries as provided by law. Their compensation shall not be decreased during their respective terms of office, unless by general law applying to all salaried officers of the State. They shall be retired upon attaining the age of seventy years. They shall be included in any retirement law of the State."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the method of filling a vacancy in the district courts be changed by requiring the candidate selected by the chief justice to also be approved of by the senate which must hold a public hearing within thirty days of the appointment?"

SECTION 4. Constitutional material to be repealed is bracketed. New constitutional material is underscored.

SECTION 5. The constitutional amendment proposed by this Act shall take effect upon compliance with Article XVII, Section 3 of the Constitution of the State of Hawaii.

## S.B. NO. 2294

A Bill for an Act Relating to the Judiciary.

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

SECTION 1. The purpose of this Act is to propose an amendment to Article VI, section 3, of the Constitution of the State of Hawaii to change the number of nominees for judicial appointments made by the judicial selection commission

## PROPOSED CONSTITUTIONAL AMENDMENTS

and submitted to the governor from not less than six to no less than four and no more than six.

SECTION 2. Article VI, Section 3, of the Constitution of the State of Hawaii is amended to read as follows:

### “APPOINTMENT OF JUSTICES AND JUDGES

**Section 3.** The governor shall, with the consent of the senate, fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court and circuit courts, by appointing a person from a list of not less than four, and not more than six, nominees for the vacancy, presented to the governor by the judicial selection commission.

If the governor fails to make any appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this, the commission shall make the appointment from the list, without senate consent.

The chief justice shall fill a vacancy in the district courts by appointing a person from a list of not less than six nominees for the vacancy presented by the judicial commission. If the chief justice fails to make the appointment within thirty days of presentation, the appointment shall be made by the judicial selection commission from the list. The chief justice shall appoint per diem district court judges as provided by law.

### QUALIFICATIONS FOR APPOINTMENT

Justices and judges shall be residents and citizens of the State and of the United States, and licensed to practice law by the supreme court. A justice of the supreme court, a judge of the intermediate appellate court and a judge of the circuit court shall have been so licensed for a period of not less than ten years preceding nomination. A judge of the district court shall have been so licensed for a period of not less than five years preceding nomination.

No justice or judge shall, during the term of office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State or its political subdivisions.

### TENURE; COMPENSATION; RETIREMENT

The term of office of justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods as provided by law. At least six months prior to the expiration of a justice's or judge's term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of an intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew the term of office of such justice or judge for the period provided by this section or by law.

## PROPOSED CONSTITUTIONAL AMENDMENTS

There shall be a salary commission to review and recommend salaries for justices and judges of all state courts. Justices and judges shall have salaries as provided by law. Their compensation shall not be decreased during their respective terms of office, unless by general law applying to all salaried officers of the State. They shall be retired upon attaining the age of seventy years. They shall be included in any retirement law of the State."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the number of nominees for any judicial vacancy submitted by the judicial selection commission to the governor be changed from a list of "not less than 6" nominees for the vacancy to "not less than 4 and not more than 6" nominees?"

SECTION 4. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with Article XVII, Section 3, of the Constitution of the State of Hawaii.

### S.B. NO. 2513

A Bill for an Act Proposing an Amendment to Article VI, Section 4, of the Hawaii Constitution, to Change the Terms of the Appointees to the Judicial Selection Commission.

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

SECTION 1. The purpose of this Act is to propose an amendment to Article VI, section 4, of the Constitution of the State of Hawaii to change the terms of the appointments to the judicial selection commission.

SECTION 2. Article VI, section 4, of the Constitution of the State of Hawaii is amended to read as follows:

#### **"JUDICIAL SELECTION COMMISSION**

Section 4. There shall be a judicial selection commission that shall consist of nine members. The governor shall appoint three members to the commission. No more than one of the three members shall be a licensed attorney. The president of the senate and the speaker of the house of representatives shall each respectively appoint one member to the commission. The chief justice of the supreme court shall appoint two members to the commission. No more than one of the two members shall be a licensed attorney. Members in good standing of the bar of the State shall elect two of their number to the commission in an election conducted by the supreme court or its delegate. No more than four members of the commission shall be licensed attorneys.

The commission shall be selected and shall operate in a wholly nonpartisan manner. After the initial formation of the commission, elections and appointments to the commission shall be for staggered terms of six years each. Notwithstanding the foregoing, [No] no member of the commission shall serve for more than [one full six year term] six years on the commission.

Each member of the judicial selection commission shall be a resident of

## PROPOSED CONSTITUTIONAL AMENDMENTS

the State and a citizen of the United States. No member shall run for or hold any other elected office under the United States, the State or its political subdivisions. No member shall take an active part in political management or in political campaigns. No member shall be eligible for appointment to the judicial office of the State so long as the person is a member of the judicial commission and for a period of three years thereafter.

No act of the judicial selection commission shall be valid except by concurrence of the majority of its voting members.

The judicial selection commission shall select one of its members to serve as chairperson. The commission shall [promulgate] adopt rules which shall have the force and effect of law. The deliberations of the commission shall be confidential.

The legislature shall provide for the staff and operating expenses of the judicial selection commission in a separate budget. No member of the judicial selection commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of commission duties.

The judicial selection commission shall be attached to the judiciary branch of the state government for purposes of administration.”

SECTION 3. The question to be printed on the ballot shall be as follows:

“Shall the term of appointees to the judicial selection commission be changed from no more than one full six year term to a term of no more than six years?”

SECTION 4. Constitutional material to be repealed is bracketed. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

### S.B. NO. 2515

A Bill for an Act Proposing an Amendment to Article VI, Section 4, of the Hawaii Constitution, to Change the Composition of the Appointees to the Judicial Selection Commission.

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

SECTION 1. The purpose of this Act is to propose an amendment to Article VI, section 4, of the Constitution of the State of Hawaii to reduce the number of governor’s appointees to the judicial selection commission from three to two, reduce the number of chief justice’s appointees from two to one, and increase the number of appointees by the speaker of the house of representatives and the president of the senate from one each to two each and to require that at all times at least one member of the commission shall be a resident of one of the counties other than the City and County of Honolulu.

SECTION 2. Article VI, section 4, of the Constitution of the State of Hawaii is amended to read as follows:

#### “JUDICIAL SELECTION COMMISSION

## PROPOSED CONSTITUTIONAL AMENDMENTS

**Section 4.** There shall be a judicial selection commission that shall consist of nine members. The governor shall appoint [three] two members to the commission. No more than one of the [three] two members shall be a licensed attorney. The president of the senate and the speaker of the house of representatives shall each respectively appoint [one member] two members to the commission. The chief justice of the supreme court shall appoint [two members] one member to the commission. [No more than one of the two members shall be a licensed attorney.] Members in good standing of the bar of the State shall elect two of their number to the commission in an election conducted by the supreme court or its delegate. No more than four members of the commission shall be licensed attorneys. At all times, at least one member of the commission shall be a resident of a county other than the City and County of Honolulu.

The commission shall be selected and shall operate in a wholly nonpartisan manner. After the initial formation of the commission, elections and appointments to the commission shall be for staggered terms of six years each. No member of the commission shall serve for more than one full six year term on the commission.

Each member of the judicial selection commission shall be a resident of the State and a citizen of the United States. No member shall run for or hold any other elected office under the United States, the State or its political subdivisions. No member shall take an active part in political management or in political campaigns. No member shall be eligible for appointment to the judicial office of the State so long as the person is a member of the judicial commission and for a period of three years thereafter.

No act of the judicial selection commission shall be valid except by concurrence of the majority of its voting members.

The judicial selection commission shall select one of its members to serve as chairperson. The commission shall [promulgate] adopt rules which shall have the force and effect of law. The deliberations of the commission shall be confidential.

The legislature shall provide for the staff and operating expenses of the judicial selection commission in a separate budget. No member of the judicial selection commission shall receive any compensation for commission services, but shall be allowed necessary expenses for travel, board and lodging incurred in the performance of commission duties.

The judicial selection commission shall be attached to the judiciary branch of the state government for purposes of administration.”

SECTION 3. The question to be printed on the ballot shall be as follows:

“Shall the number of appointees by the governor to the judicial selection commission be reduced from three to two, the number of appointees by the chief justice from two to one, and the number appointed by the president of the senate and the speaker of the house of representatives each respectively be increased from one to two and shall at least one of the appointees be a resident of a county other than the City and County of Honolulu?”

SECTION 4. Constitutional material to be repealed is bracketed. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

**COMMITTEE REPORTS  
ON MEASURES ENACTED**

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**TABLES SHOWING EFFECT  
OF ACTS**

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**GENERAL INDEX**



# COMMITTEE REPORTS ON MEASURES ENACTED

## A Compilation Listed by Bill Numbers

### Special Session 1993

<u>Bill No.</u>	<u>Act No.</u>	<u>Senate Committee Report No.</u>	<u>House Committee Report No.</u>
HB S1-93	Sp 1	S2-93	S1-93
HB S2-93	Sp 2	S3-93	S2-93
HB S3-93	Sp 3	S4-93	S3-93
HB S6-93	Sp 4	S5-93	S6-93
HB S7-93	Sp 7	S11-93	S10-93
HB S9-93	Sp 5	S9-93	S7-93
HB S10-93	Sp 6	S10-93	S8-93
SB S3-93	Sp 8	S8-93	S11-93

### Regular Session 1994

<u>Bill No.</u>	<u>Act No.</u>	<u>Senate Committee Report No.</u>	<u>House Committee Report No.</u>	<u>Conference Committee Report No.</u>
HB 2	50	2617, 2848	253, 539-94	
HB 65	258	2603, 2852	209, 781	45
HB 759	212	1055, 1340	238, 743	132
HB 929	164	2909	602	47
HB 1046	67	2903	491	8
HB 1088	213	1350	496, 654	48
HB 1241	63	2699, 2857	236, 776-94	146
HB 1317	214	2655, 2826	412, 770-94	130
HB 1332	165	2623, 2961	133, 542-94	133
HB 1590	166	2741	517-94	24
HB 1609	64	1030, 1162	473	124
HB 1615	65	1034, 1168	492	125
HB 1618	66	1037, 1171	478	126
HB 1627	167	1180, 2946	536	
HB 1642	22	2740	276-94	
HB 1649	53	2626, 2782	295, 520-94	
HB 1712	215	2914	654-94	40
HB 1731	68	2422	688	111
HB 1999	168	2805	273	1
HB 2005	147	2584, 3349	90-94, 756-94	
HB 2027	169	1028, 2835	96, 740	
HB 2071	216	1094, 1262	538	
HB 2075	69	2526, 2865	428, 778	
HB 2177	54	2834	37-94, 621-94	
HB 2181	28	2901	648-94	
HB 2186	70	2678, 2928	405-94, 680-94	
HB 2190	247	2779	558-94	
HB 2197	170	2676, 2786	406-94, 738-94	12
HB 2219	244	2642	583-94	25
HB 2220	245	2924	565-94	26
HB 2221	246	2670, 2870	22-94, 353-94, 757-94	135
HB 2234	29	2809	3-94, 739-94	
HB 2235	274	2939	533-94	5
HB 2238	71	2941	712-94	22
HB 2274	55	2904	55-94	
HB 2279	3	2561	743-94	
HB 2280	1	1750	1-94	
HB 2284	263	2689, 2947	716-94	137
HB 2285	72	2681, 2781	401-94, 623-94	
HB 2287	30	2775	402-94, 589-94	
HB 2294	171	2643, 2920	25-94, 749-94	11

<u>Bill No.</u>	<u>Act No.</u>	<u>Senate Committee Report No.</u>	<u>House Committee Report No.</u>	<u>Conference Committee Report No.</u>
HB 2309	73	2633, 2871	136-94, 582-94	
HB 2312	217	2777	11-94	
HB 2318	26	2739	280-94	
HB 2319	23	2738	277-94	
HB 2320	27	2748	337-94	
HB 2322	74	2745	336-94	38
HB 2326	4	2552	338-94	
HB 2327	31	2776	649-94	
HB 2333	75	2668, 2882	45-94, 777-94	113
HB 2334	32	2905	56-94	
HB 2344	76	2661, 2863	544-94	114
HB 2361	33	2680, 2783	399-94, 587-94	
HB 2449	250	2921	350-94, 665-94	42
HB 2460	77	2732	692-94	
HB 2461	78	2656, 2785	684-94	33
HB 2462	34	2810	655-94	
HB 2490	79	2811	678-94	
HB 2491	172	2812	26-94, 740-94	17
HB 2500	252	2940	820-94	141
HB 2515	276	2709, 2948	521-94, 626-94	149
HB 2553	173	2671, 2872	176-94, 768-94	
HB 2599	80	2789	711-94	34
HB 2605	174	2645, 2838	419-94, 741-94	122
HB 2622	81	2572, 3350	16-94, 236-94, 591-94	
HB 2623	175	2562, 2955	182-94, 805-94	
HB 2631	96	2606, 2884	259-94, 779-94	
HB 2635	176	2607	689-94	
HB 2640	267	2766	168-94, 742-94	18
HB 2641	268	2808	30-94, 751-94	14
HB 2642	269	2910	31-94, 750-94	15
HB 2680	177	2798	483-94, 604-94	36
HB 2690	218	2601, 2799	243-94, 627-94	
HB 2692	280	2720, 2831	202-94, 511-94, 804-94	
HB 2725	178	2641	566-94	27
HB 2730	259	2662, 2949	148-94, 807-94	143
HB 2746	219	2608, 2885	111-94, 593-94	112
HB 2780	253	2762	17-94, 822-94	139
HB 2784	5	2638	329-94	
HB 2818	6	2634	574-94	
HB 2825	35	2813	677-94	
HB 2882	97	2620, 2849	532-94	
HB 2897	179	2609, 2887	340-94, 786-94	
HB 2909	98	2942	415-94, 681-94	13
HB 2912	261	2604, 2800	18-94, 362-94, 747-94	
HB 2913	262	2585, 2801	209-94, 439-94, 723-94	20
HB 2921	249	2922	489-94, 809-94	37
HB 2925	99	2701, 2858	78-94, 581-94	
HB 2928	180	2931	719-94	131
HB 2944	100	2814	651-94	
HB 2945	148	2610, 2886	457-94, 595-94	
HB 2949	243	2728	569-94	
HB 2965	101	2563, 2866	238-94, 632-94	
HB 2968	7	2639	330-94	
HB 2975	102	2551	518-94	28
HB 2981	181	2553	333-94	29
HB 2985	182	2917	332-94	50
HB 2986	8	2558	516-94	
HB 2988	9	2635	278-94	
HB 2989	103	2556	331-94	
HB 2990	254	2761	356-94, 821-94	140
HB 3017	220	2943	710-94	49
HB 3055	255	2619, 3351	15-94, 596-94	
HB 3090	104	2722, 2735	535-94	

<u>Bill No.</u>	<u>Act No.</u>	<u>Senate Committee Report No.</u>	<u>House Committee Report No.</u>	<u>Conference Committee Report No.</u>
HB 3132	221	2937	548-94	119
HB 3133	61	2637, 2875	307-94, 633-94	30
HB 3135	222	2636, 2877	306-94, 735-94	128
HB 3137	105	2780	572-94	31
HB 3138	24	2742	293-94, 606-94	
HB 3140	149	2565, 3352	371-94, 607-94	
HB 3144	150	2700, 2859	531-94	142
HB 3145	14	2733	88-94, 644-94	
HB 3147	106	2586, 3353	92-94, 577-94	
HB 3149	107	2915	652-94	
HB 3150	36	2767	132-94, 812-94	
HB 3151	108	2704, 2860	216-94, 761-94	
HB 3152	109	2575, 3354	159-94, 608-94	
HB 3155	37	2768	381-94, 670-94	
HB 3157	110	2544, 3355	62-94, 576-94	
HB 3160	60	2546	119-94, 561-94	117
HB 3164	265	2548, 2891	266-94, 635-94	
HB 3165	111	2549, 2929	207-94, 499-94, 609-94	
HB 3169	112	2703, 2950	114-94, 575-94	150
HB 3170	113	2687, 2802	178-94, 586-94	19
HB 3171	38	2682, 2803	72-94, 366-94, 610-94	
HB 3176	114	2566, 2868	481-94, 737-94	
HB 3179	223	2710, 2957	113-94, 597-94	151
HB 3180	56	2793	514-94	
HB 3187	15	2723	284-94	
HB 3190	115	2651, 2843	585-94	
HB 3191	116	2705, 2861	536-94	
HB 3192	10	2724	322-94	
HB 3195	117	2900	391-94, 620-94	
HB 3198	151	2621, 2963	34-94, 580-94	9
HB 3199	118	2622, 2850	115-94, 772-94	
HB 3201	119	2557	519-94	32
HB 3208	39	2815	696-94	
HB 3209	183	2674, 2828	695-94	35
HB 3210	184	2658, 2824	697-94	
HB 3211	185	2659, 2829	698-94	
HB 3212	277	2945	688-94	120
HB 3213	40	2816	709-94	
HB 3255	120	2612, 2902	398-94, 728-94	16
HB 3300	186	2692, 2959	753-94	138
HB 3302	121	2577, 2844	573-94	
HB 3303	224	2675, 2787	722-94	23
HB 3304	41	2652, 2934	505-94, 611-94	
HB 3305	42	2817	707-94	
HB 3306	122	2818	646-94	
HB 3307	123	2819	687-94	
HB 3308	43	2820	642-94	
HB 3309	124	2821	658-94	
HB 3310	125	2916	659-94	
HB 3312	44	2822	706-94	
HB 3321	126	2790	571-94	
HB 3322	2	2532	118-94, 543-94	
HB 3323	187	2683, 2855	348-94, 672-94	136
HB 3326	188	2583, 2893	173-94, 661-94	115
HB 3327	266	2627, 2894	206-94, 498-94, 798-94	
HB 3329	57	2717, 2832	319-94, 815-94	
HB 3332	189	2571, 3356	343-94, 612-94	
HB 3333	152	2693, 2845	226-94, 790-94	121
HB 3350	16	2725	554-94	
HB 3406	11	2582	641-94	
HB 3416	127	2944	700-94	41
HB 3417	12	2726	553-94	
HB 3426	190	2933	526-94, 782-94	

<u>Bill No.</u>	<u>Act No.</u>	<u>Senate Committee Report No.</u>	<u>House Committee Report No.</u>	<u>Conference Committee Report No.</u>
HB 3427	225	2697, 2935	701-94	
HB 3428	128	2804	455-94, 783-94	153
HB 3431	191	2672, 2830	103-94, 616-94	
HB 3433	129	2578, 2846	297-94, 500-94, 636-94	
HB 3443	130	2706, 2953	215-94, 731-94	134
HB 3445	270	2568, 2869	491-94, 667-94	
HB 3446	271	2713, 2965	71-94, 441-94, 668-94	
HB 3447	281	2714, 2851	254-94, 662-94	10
HB 3451	226	2613, 2888	458-94, 763-94	116
HB 3456	192	2664, 2895	177-94, 764-94	147
HB 3458	193	2625, 2896	704-94	118, 152
HB 3461	153	2665, 2897	422-94, 628-94	
HB 3463	154	2600, 3357	131-94, 433-94, 801-94	
HB 3464	194	2560, 3358	423-94, 629-94	
HB 3465	155	2632, 2878	424-94, 793-94	
HB 3466	156	2660, 2879	425-94, 765-94	
HB 3468	131	2559, 3359	427-94, 630-94	
HB 3470	195	2743	645-94	39
HB 3472	196	2707, 2862	522-94, 614-94	
HB 3473	157	2669, 3360	290-94, 631-94	
HB 3484	132	2654, 2827	524-94, 638-94	
HB 3491	197	2677, 2919	397-94, 588-94	21
HB 3506	198	2640, 2880	294-94, 493-94, 767-94	129
HB 3511	25	2744	567-94	
HB 3513	279	2663, 2864	109-94, 472-94, 639-94	144
HB 3520	227	2769	693-94	
HB 3585	133	2615, 2889	527-94, 818-94	
HB 3600	228	2605, 2853	421-94, 819-94	145
HB 3607	199	2616, 2890	468-94, 794-94	154
HB 3610	45	2770	568-94	
HB 3630	200	2650, 2856	287-94, 510-94, 796-94	127
HB 3657	272	2807	496-94, 803-94	156
HB 3675	17	2727	324-94	
HB 3676	158	2629, 2899	267-94, 603-94	155
HB 3716	260	2696, 3362	363-94, 669-94	
HB 3729	46	2679, 2778	392-94, 590-94	
HB 3742	134	2719, 2833	318-94, 615-94	
SB 475	275	184, 532	886, 1462-94	
SB 495	229	832	1207	62
SB 576	230	226	1461-94	76
SB 905	62	2371	968-94, 1464-94	65
SB 1249	278	2449	920-94, 1037-94, 1484-94	86
SB 1628	231	146, 664	1458-94	74
SB 2041	58	1829, 2467	955-94, 1422-94	
SB 2098	82	2148, 2452	903-94, 1204-94	
SB 2141	232	2137, 2358	1018-94, 1485-94	81
SB 2151	48	1875, 2265	907-94, 1497-94	
SB 2161	233	1778, 2396	966-94, 1466-94	79
SB 2162	234	2365	980-94, 1467-94	
SB 2170	201	2106, 2397	852-94, 1004-94, 1486-94	84
SB 2172	202	2108, 2399	1045-94, 1487-94	73
SB 2180	203	2221	965-94, 1421-94	55
SB 2183	282	2209	1431-94	59
SB 2261	283	1761, 1958, 2504	923-94, 1022-94, 1206-94	82
SB 2272	159	1859, 2505	1001-94, 1470-94	
SB 2288	248	2230	960-94, 1423-94	2
SB 2366	83	1816	1093-94	77
SB 2377	251	2016, 2393	899-94, 1052-94, 1488-94	85
SB 2378	256	1781	1094-94	75
SB 2393	204	1776	1154-94	63
SB 2402	273	1908, 2222	1413-94	6
SB 2404	49	1782	679-94, 1054-94, 1498-94	
SB 2434	51	2506	1017-94, 1198-94	

<u>Bill No.</u>	<u>Act No.</u>	<u>Senate Committee Report No.</u>	<u>House Committee Report No.</u>	<u>Conference Committee Report No.</u>
SB 2563	84	2256	995-94, 1433-94	57
SB 2591	85	1783	1095-94	
SB 2605	86	2231	1415-94	7
SB 2615	242	1913, 2245	1033-94, 1207-94	67
SB 2623	87	1792, 2332	862-94, 1208-94	
SB 2630	88	2158, 2469	978-94, 1434-94	54
SB 2653	89	1767	1096-94	87
SB 2663	90	2029, 2414	931-94, 1435-94	60
SB 2722	91	2442	1145-94	56
SB 2728	235	1848, 2268	1032-94, 1472-94	69
SB 2752	92	2161, 2512	1015-94, 1473-94	
SB 2753	160	2100, 2391	1027-94, 1317-94	
SB 2781	93	2198, 2308	1014-94, 1215-94	
SB 2787	94	1894, 2411	970-94, 1428-94	
SB 2829	95	2208	1149-94	53
SB 2834	135	1764, 2253	831-94, 1102-94	
SB 2837	236	2237	947-94, 1424-94	
SB 2863	205	1880, 2403	963-94, 1217-94	
SB 2875	237	1919, 2251	832-94, 1491-94	72
SB 2880	206	2214	1150-94	
SB 2889	257	1961, 2404	1039-94, 1216-94	
SB 2908	238	1928, 2515	916-94, 1492-94	83
SB 2921	136	1933, 2295	987-94, 1499-94	
SB 2923	59	2261	851-94, 1429-94	
SB 2924	137	1935, 2288	988-94, 1475-94	
SB 2925	138	2180, 2329	906-94, 1200-94	
SB 2949	139	1796, 2413	1151-94	
SB 2954	140	1936, 2286	989-94, 1437-94	
SB 2956	207	2259	882-94, 1002-94, 1438-94	3
SB 2963	13	1883	1088-94	
SB 2964	141	1784	1098-94	
SB 2965	142	1818	1099-94	
SB 2966	18	1804	1089-94	
SB 2970	19	1785	1090-94	
SB 2971	20	1805	1091-94	
SB 2979	239	1995, 2324	883-94, 1218-94	
SB 3010	52	1803, 2459	876-94, 1220-94	
SB 3012	161	2132, 2387	1024-94, 1476-94	
SB 3015	208	1902, 2314	975-94, 1201-94	
SB 3024	143	2041, 2330	1009-94, 1222-94	
SB 3044	144	1879, 2271	1197-94	
SB 3045	264	2127, 2520	1046-94, 1494-94	89
SB 3047	21	1817	1092-94	
SB 3064	47	1801, 2240	919-94, 1221-94	
SB 3075	145	2257	905-94, 1028-94, 1223-94	
SB 3161	162	2128, 2522	881-94, 1000-94, 1224-94	66
SB 3180	209	2375	1016-94, 1426-94	51
SB 3254	240	2091, 2342	952-94, 1212-94	68
SB 3292	163	2372	911-94, 1038-94, 1480-94	78
SB 3303	210	2120, 2406	853-94, 1042-94, 1481-94	80
SB 3307	241	1968, 2407	1459-94	70
SB 3309	211	1873, 2292	873-94, 938-94, 1482-94	64
SB 3322	146	2236	977-94, 1427-94	4

### Constitutional Amendments

SB 2182	Const Am	2203	1420-94	58
SB 2294	Const Am	2037, 2304	1146-94	
SB 2513	Const Am	2202	1147-94	
SB 2515	Const Am	2205	1155-94	52

# TABLES SHOWING EFFECT OF ACTS

## Seventeenth State Legislature 1993 Special and 1994 Regular Sessions

Key: Am = Amended  
 N = New  
 R = Repealed  
 Rec = Reenacted

Sp = Special Session  
 \_\_\_ = Section number to  
 be assigned in HRS  
 Supplement

### A. SECTIONS OF HAWAII REVISED STATUTES AFFECTED

Section No.	Effect	Act No.	Section No.	Effect	Act No.
<b>VOLUME 1</b>					185
					251
6E-___	N	236			277
6F-5	Am	7			279
6K-___	N	161	26H-5	Am	279
6K-4 to 6	Am	161	26H-8	R	279
8-___	N	243	29-17 to 23	R	186
C 10, pt I (heading)	N	283	36-27	Am	Sp 7
10-___ (16 secs, pt ___)	N	283			106
10-4	Am	283			136
11-___	N	167			137
11-17, 20	Am	119			232
11-132	Am	95	36-30	Am	136
11-157	Am	272			137
11-193	Am	Sp 8			232
11-205, 209, 218, 221	Am	272	36-32	Am	272
12-5	Am	272	36-41	Am	Sp 8
C 13	R	272	37-___ (2 secs)	N	281
17-6	R	272	37-32	Am	281
21F-8	Am	272	37-34, 35 to 37	Am	281
23-4	Am	279	37-41	Am	281
23-8, 12	Am	56	37-41.5	Am	272
23G-2	Am	56	37-68	Am	263
26-2, 4, 5	Am	56	37-74	Am	281
26-6	Am	45	38-2	Am	21
		186	39A-___ (22 secs, pt ___)	N	280
26-9	Am	279	39A-32, 72, 112, 152, 192	Am	Sp 8
26-14.6	Am	154	40-1, 2, 4, 6, 58	Am	Sp 8
26-52	Am	56	40-68	Am	221
26H-4	Am	39	40-81	Am	Sp 8
		40	41D-2	Am	Sp 8
		183	42D-1	Am	Sp 8
		184			

Section No.	Effect	Act No.	Section No.	Effect	Act No.
<b>VOLUME 2</b>			88-126	Am	138
			88-271, 281	Am	276
46-___	N	262	88-286	Am	108
46-1.5	Am	171	88E-3 to 5	Am	56
46-11	Am	Sp 7	89-5	Am	Sp 8
46-15.6	Am	171	89-10.5, 10.6	Am	272
46-17	Am	5	89-19	Am	56
46-18	Am	260	89C-3, 4, 6	Am	56
46-19.5	Am	168	90-1	Am	250
46-19.6	R	168	90-3	Am	56
46-56	Am	Sp 8	91-4.1, 5, 13.1	Am	279
46-65.7	Am	Sp 7	92-___	N	121
53-9	Am	Sp 8	92-21	Am	226
76-___	N	223	92F-19	Am	56
76-1, 3 to 5, 10, 11, 11.5, 12 to 15	Am	56	96-3	Am	56
76-16	Am	56	102-6	Am	Sp 8
		93			186
		223	102-14	Am	57
76-17 to 22	Am	56	103-3	R	Sp 8
76-22.5	Am	223		Am	92
76-23, 24, 25, 28, 30, 35 to 37, 39, 41 to 43	Am	56	103-9, 21	Am	Sp 8
76-47	Am	166	103-22	R	Sp 8
76-48, 49, 52 to 54, 56	Am	56	103-22.1	Am	Sp 8
76-78	Am	56			186
		223	103-23, 23.2, 23.5, 24	R	Sp 8
77-1, 13	Am	56	103-24.5	Am	Sp 8
78-1	Am	56		R	186
78-4	Am	200	103-24.6	Am	Sp 8
78-51	Am	56	103-25 to 32	R	Sp 8
79-___	Am	56	103-32.1	Am	Sp 8
79-12, 31	Am	56	103-33 to 38, 39	R	Sp 8
80-4, 21	Am	56	103-40	Am	Sp 8
81-1, 2, 21	Am	56	103-41	R	186
82-5, 6	Am	56	103-42, 43	Am	Sp 8
83-2 to 4	Am	56		R	186
85-33, 38, 47	Am	56	103-43.5, 44, 45, 46, 47	R	186
87-1	Am	56	103-48	Am	Sp 8
88-11	Am	275		R	186
88-21	Am	108	103-49	Am	Sp 8
		196	103-51	R	186
		272	103-52	R	Sp 8
88-45, 47, 74	Am	196	103-61	Am	Sp 8
		276	103D-___	N	201
88-84	Am	108	103D-102, 104, 202	Am	186
88-105, 107, 114, 116, 122	Am	276	103D-203	Am	186
					193

Section No.	Effect	Act No.	Section No.	Effect	Act No.
103D-209	Am	92	<b>VOLUME 4</b>		
		188			
103D-210	R	186	201-82, 85	Am	Sp 8
103D-302, 305, 323, 801 to 804, 809, 901	Am	186	201-91, 92	Am	223
103D-905	R	186	201-94	Am	32
103D-1001 to 1006, pt X, 1101 to 1107, pt XI, 1201 to 1214, pt XII	N	186			67
104-5, 7	Am	Sp 8	201-95	Am	223
C 106	R	186	201E-___	N	55
106-15	Am	Sp 8	201E-33	Am	14
<b>VOLUME 3</b>			201E-34	R	Sp 8
124A-163	Am	36	201E-202	Am	Sp 8
125C-3, 21, 23	Am	59	201F-1 to 5	Am	147
128-10	Am	Sp 8	203-2	Am	55
		186	203-5	Am	67
128-13	Am	Sp 8	205-5	Am	270
128D-2	Am	205	205A-2, 26	Am	3
134-1, 2, 3, 6, 7, 9, 17, 18, 32	Am	204	206-8, 21, 22	Am	Sp 8
147-___ (1 sec, pt ___)	N	264	206E-11	Am	Sp 8
150A-6	Am	48	206J-9	Am	Sp 8
C 153	R	264	206J-17	Am	137
157-1, 15	Am	144	C 206X	Am	75
C 163	R	264	206X-___ (2 secs)	N	Sp 7
166-6	Am	218	206X-2, 4, 5 to 8	Am	Sp 7
171-___	N	175	206X-10	R	Sp 7
171-___ (2 secs)	N	162	209-9	Am	86
171-6	Am	162	210-6	Am	202
171-28	Am	69	211F-1	Am	264
171-36	Am	114	226-___	N	96
171-138	Am	162	226-17, 18	Am	96
180-2	Am	Sp 8	227D-5	Am	179
183-41, 43	R	270	227D-7	Am	Sp 8
185-___	N	140	231-___	N	115
185-1 to 5, 7 to 9	Am	140	231-3.5	Am	20
186-___	N	207	231-15.6, 15.7	Am	16
186-3, 4	Am	207	231-39	Am	15
188-___	N	271	C 234	R	16
188-29	Am	54	235-___	N	13
200-13	Am	113	235-2.3	Am	13
200-14	Am	38	235-5.5	Am	49
200-16	Am	113	235-111	Am	18
			236D-___	N	142
			236D-2, 5 to 9, 11, 12	Am	142
			236D-13	Am	19
			236D-14, 15	Am	142
			237-___	N	12
			237-13, 24	Am	141
			237-24.3	Am	116





Section No.	Effect	Act No.	Section No.	Effect	Act No.
323-70, 73	Am	192	354D-5	Am	194
325-___	N	265	354D-8	Am	Sp 8
328-1, 16	Am	172	356-15.5, 22	Am	Sp 8
328-17.6	Am	79	356-23	R	Sp 8
329-58	Am	Sp 8	358D-6	Am	250
331-1	Am	Sp 8	359-2	Am	258
333F-___	N	53	359A-3	Am	5
333F-1	Am	53	367-2	Am	56
334-59, 60.3, 60.5	Am	58	368-3	Am	Sp 8
334-74	Am	153	368-4	Am	139
338-___	N	232	371-4	Am	92
338-12	Am	23	378-2, 3	Am	88
342B-12, 21, 33, 48	Am	268	382-3	Am	Sp 8
342D-31	Am	269	383-___	N	112
342D-32	Am	5	383-7, 29	Am	112
342F-14	Am	169	383-103	Am	Sp 8
342G-___ (9 secs, pt ___)	N	201	388-10, 11	Am	84
342G-___	N	202	392-76	Am	Sp 8
342G-42	Am	186	C 393, pt V	R	99
342H-___	N	210	396-___	N	130
342H-1, 10.5, 19, 30	Am	210	396-4	Am	130
342J-___	N	267			
342J-___	Am	267			
			<b>VOLUME 8</b>		
			412:2-309, 311, 314, 502, 609	Am	107
			412:3-103, 112, 302, 501, 600, 601, 603, 604, 608, 617	Am	107
			412:6-303	Am	107
			412:9-410	Am	107
			<b>VOLUME 9</b>		
			431:___	N	145
			431:1-204	Am	127
			431:2-307	Am	190
			431:2-308	Am	128
			431:3-___ (13 secs, pt ___)	N	190
			431:3-301	Am	128
			431:3-302	Am	190
			431:3-302.5	Am	128
			431:4A-101	Am	34
			431:5-307	Am	190
			431:7-202	Am	160
<b>VOLUME 7</b>					
346-___	N	232			
346-___	N	238			
346-29, 29.5, 34, 37	Am	187			
346D-6	R	110			
346E-1, 2	Am	230			
346E-3 to 8	Ree	230			
346E-9	Am	230			
346E-10	Ree	230			
346E-11	Am	230			
346E-12, 13	Ree	230			
346E-14	Am	230			
346E-15, 16	Ree	230			
348-8, 9	Am	126			
348E-2, 6	Am	56			
358-___	N	153			
353-___	N	131			
353-16.2	Am	208			
353-63	Am	156			
353F-4	Am	155			
354D-4	Am	Sp 8			

Section No.	Effect	Act No.	Section No.	Effect	Act No.
431:7-207	Am	160	461-5, 8.5	Am	39
431:10A-304	Am	5	463-1, 5 to 8, 10, 12	Am	122
431:10C-___	N	Sp 4	465-1, 3, 7, 7.5, 13	Am	125
431:10C-110, 111	Am	Sp 4	466J-4, 5	Am	169
431:10C-115.5	Am	128	467-1, 2, 4, 8, 9, 9.5,	Am	100
431:10C-117, 301	Am	Sp 4	9.6, 10		
431:10C-308.6	Am	220	467-11.5	Am	68
431:10C-308.7	Am	Sp 4	467-15, 15.5, 18, 20, 30	Am	100
431:10C-407	Am	Sp 4	467-31	R	214
		225	467B-9	Am	35
431:10C-409	Am	Sp 4			
431:10G-301	Am	128	<b>VOLUME 11</b>		
431:14-119	Am	128			
431:19-102.3, 102.4	Am	128	486E-___	N	199
431:19-107, 115	Am	190	486K-___	N	90
431:21-104	Am	128	489-5	Am	88
431M-1, 4	Am	111			
432:___	N	145	<b>VOLUME 12</b>		
<b>VOLUME 10</b>					
436B-10	Am	124	501-82	Am	206
436E-13	Am	43	506-8	Am	78
437-18	Am	Sp 8	507-17	R	Sp 8
437D-15	Am	44	514A-82	Am	77
438-7	Am	124	514E-10, 10.5, 11, 12	Am	91
442-2	Am	124	521-7	Am	248
444-15, 26, 27	Am	132	534A-6	Am	6
445-112	Am	118	571-___	N	247
447-1, 3	Am	183	571-21	Am	22
448-5	Am	183	572-___ (2 secs)	N	217
448-9	Am	124	572-1, 3	Am	217
448E-___	N	215	572-5	Am	232
448E-4, 8	Am	215	576D-3, 6, 11	Am	24
452-4, 23	Am	5	576E-1 to 12, 15	Am	105
455-1	Am	71	577-___	N	244
455-3	Am	29	578-4	Am	8
457-___	N	277	584-___	N	26
457-___	N	278	584-11	Am	27
457-2 to 4	Am	277			
457A-1 to 3	Am	185	<b>VOLUME 13</b>		
457B-___	N	184			
457B-2, 3.1, 4	Am	184	601-___	N	232
459-7, 8	Am	123	603-1	Am	103
460-___	N	42	604-2	Am	282
460-4, 6, 9	Am	42	604-5	Am	4

Section No.	Effect	Act No.	Section No.	Effect	Act No.
607-14	Am	74	<b>VOLUME 14</b>		
626-1 (rule 404)	Am	25			
634-21, 22	Am	9	706-620, 623	Am	229
C 634D	R	9	706-625	Am	5
657-8	Am	164	706-659	Am	229
662-16	Am	143	707-726, 727	Am	245
663-___	N	213	709-906	Am	182
663-___	N	250	712A-1, 2, 6, 10	Am	178
663-___	N	204	804-5	Am	181
674-5, 13	Am	Sp 8	806-73	Am	102

## B. SESSION LAWS OF HAWAII AFFECTED

S.L. No.	Effect	Act No.	S.L. No.	Effect	Act No.
Laws 1981 First Sp			Act 316	Am	252
Act 1	Am	252	Act 370	Am	281
Laws 1982			Act 371	Am	Sp 8
Act 264	Am	252	Laws 1990		
Laws 1984			Act 249	Am	162
Act 155	Am	149	Act 299	Am	252
Laws 1985			Act 300	Am	252
Act 300	Am	252	Act 339	Am	275
Laws 1986			Laws 1991		
Act 320	Am	281	Act 69	Am	162
Act 321	Am	Sp 8	Act 163	Am	Sp 8
Act 345	Am	252	Act 285	Am	41
Laws 1987			Act 296	Am	252
Act 45	Am	101	Act 299	Am	254
Act 95	Am	68	Act 314	Am	81
Act 216	Am	252	Act 317	Am	252
Act 217	Am	252	Act 329	Am	56
Act 283	Am	Sp 8	Act 334	Am	272
		281	Laws 1992		
Laws 1988			Act 32	Am	223
Act 96	Am	75	Act 130	Am	209
Act 202	Am	111	Act 159	Am	75
Act 237	Am	162	Act 195	Am	5
Act 390	Am	252	Act 227	Am	261
Laws 1988 Sp			Act 299	Am	134
Act 2	Am	252	Act 300	Am	252
Laws 1989			Act 301	Am	254
Act 217	Am	68	Laws 1993		
Act 314	Am	252	Act 29	Am	209

S.L. No.	Effect	Act No.	S.L. No.	Effect	Act No.
Act 30	R	10			165
Act 98	Am	275			252
Act 157	Am	56	Act 299	Am	Sp 6
Act 168	Am	171	Act 305	Am	195
Act 172	Am	81	Act 311	Am	241
Act 177	Am	162	Act 314	Am	Sp 8
Act 206	Am	35	Act 315	Am	230
Act 211	Am	11	Act 335	Am	17
		188	Act 344	Am	Sp 1
		193	Act 357	Am	276
Act 214	Am	33	Act 359	Am	200
Act 241	Am	75	Act 364	Am	82
Act 276	Am	253			272
Act 277	Am	254	Laws 1993 Sp		
Act 280	Am	151	Act 2	Am	252
		179	Act 8	Am	92
		190			186
Act 285	Am	76			188
Act 289	Am	Sp 2			193
		135			201

**C. SECTIONS OF HAWAIIAN HOMES  
COMMISSION ACT 1920**

Section No.	Effect	Act No.	Section No.	Effect	Act No.
209	Am	37 109	213	Am	152

**D. SECTIONS OF STATE CONSTITUTION  
AFFECTED**

Section No.	Proposed Effect	Bill or Act No.	Section No.	Proposed Effect	Bill or Act No.
Art VI, §3	Am	SB 2182	Art VII, §12	Am	280
		SB 2294	Art X, §1	Am	280
Art VI, §4	Am	SB 2513	Art X, §§2, 3	Am	272
		SB 2515			

# GENERAL INDEX

ACT

## ABUSE

Child abuse prevention programs, federal funding .....	252
Domestic violence	
intervention or prevention programs, funding .....	232
order to leave premises, cooling off period .....	182
transitional facilities .....	248
Protective orders, firearms possession by restrained person .....	204
Shelter facilities .....	248
Spouse and child abuse special accounts .....	232

## ACCOUNTING AND GENERAL SERVICES

Checks and warrants, payment of outstanding items .....	221
Education functions and programs, transfer .....	272
Hawaiian sovereignty elections council .....	200
Procurement Code (this index)	
Public Buildings (this index)	
State risk management program, administration .....	186

## ACTIONS

Armed forces, temporary suspension from civil liabilities .....	257
Assumpsit, attorneys fees .....	74
Food, shelter, or services to needy, immunity to liability .....	250
Hawaiian home lands, Panaewa lot repairs .....	152
Hotels, liability to guests for beach and ocean injuries or loss .....	90
Joint and several liability for government agencies (deep pockets), abolished .....	213
Products liability, real property improvements .....	164
Public assistance recipients, recovery of payments .....	187
Real property improvements, limitations .....	164
Wages, interest awarded on unpaid wages .....	84

## ACUPUNCTURE

Academic designations .....	43
-----------------------------	----

## ADVERTISING

Outdoor, stadium .....	118
Tourism (this index)	

## AGED PERSONS

Long Term Care (this index)	
-----------------------------	--

## AGRICULTURE

Agribusiness development corporation, established .....	264
Agricultural lands	
inventory .....	264
Kapolei land exchange .....	177

tree farms .....	207
Agricultural parks	
Hamakua, Kauai, and Lanai developments .....	252
lease rent .....	218
Agricultural products program, repealed .....	264
Hilo-Hamakua area, infrastructure development .....	241
Long term leases	
extension .....	162
Hilo-Hamakua region .....	211
Marketing orders and agreements .....	264
Milk, audit of processing plants .....	144
Molokai irrigation system monitoring program .....	159
Pineapple, research and extension .....	235
Quarantine, importation of microorganism .....	48
Research and extension services, appropriation .....	235
Slaughterhouses and feedlots, Hilo-Hamakua region .....	211
Sugar (this index)	
Termite control .....	252

AIRPORTS

Aviation fuel set-aside .....	59
Aviation training center .....	252
Community college instructional courses .....	252
Cultural displays and activities, appropriation; master plan .....	252
Hilo international, aviation training center .....	252
Interisland air carriers, qualification .....	146
Marketing and promotion, Kauai, Maui, Hawaii .....	252
Rates, rentals, landing fees, etc .....	62
Taxi service master plan .....	163

ALOHA TOWER

Honolulu waterfront development and special account .....	137
---	-----

ANIMALS

Beef, purchase of local beef by schools .....	252
Equine activities, limited liability .....	249
Horse riding, training, etc., limited liability .....	249
Slaughterhouses and feedlots, Hilo-Hamakua region .....	211

APPROPRIATIONS

Agribusiness development corporation .....	264
Agriculture, sugar and pine research and extension .....	235
Airport taxi service master plan .....	163
Capital improvement projects	
judiciary .....	254
supplemental .....	252
Claims against the State .....	61
Collective bargaining cost items	
excluded employees .....	Sp 6
	63
	150
unit 1 .....	64
units 3, 4, 13 .....	63

unit 7.....	65
unit 9.....	Sp 5
unit 10.....	66
unit 11.....	Sp 3
Convention center.....	Sp 7
	252
Criminal injuries compensation awards.....	157
Emergency	
financial assistance.....	2
foster care payments.....	60
Hilo and Maui memorial hospitals.....	52
medical services to Hamakua residents.....	47
public safety department.....	51
Employees retirement system, early retirement bonus.....	212
Hamakua community development district.....	241
Hawaiian affairs, supplemental appropriations act of 1994.....	253
Hawaiian home lands	
individual claims for breach of trust.....	129
Panaewa lot repairs.....	152
Hawaiian sovereignty elections council.....	200
Health	
ambulance service for Oahu.....	237
hospital emergency appropriation.....	52
household hazardous waste.....	233
Highways, bond payments.....	Sp 2
Hilo-Hamakua region	
housing loans and grants.....	228
medical services.....	47
Human services	
financial assistance, emergency appropriation.....	2
foster care, emergency payments.....	60
Maluhia wait-list project.....	165
Judiciary, supplemental appropriations act of 1994.....	254
Juvenile justice information system.....	222
Kahoolawe conveyance; commission.....	161
Kauai disaster relief, amendments.....	17
Legislative auditor, oversight functions.....	279
Legislature	
legislative branch.....	1
public access room.....	259
televised sessions.....	259
Maunaloa bay, dredging near marina.....	231
Missing children's clearinghouse.....	246
Molokai irrigation system monitoring program.....	159
No Hope in Dope program.....	198
Procurement code.....	Sp 8
Public safety	
after-hours security for defense facilities.....	154
corrections overtime, emergency appropriations.....	51
paroling authority, salaries.....	156
Public utilities commission, special fund.....	226
Rental housing trust fund commission.....	147
Samoan Flag Day.....	240
Social worker licensing program.....	251
Spouse and child abuse special accounts.....	232
State checks and warrants, payments.....	221
Supplemental appropriations act of 1994.....	252



## ARMED FORCES

Civil liabilities, temporary suspension from .....	257
Code of military justice, training .....	36
Diamond Head facilities, after-hours security .....	154
Housing, veterans' housing.....	258
Tuition waivers	
national guard dependents .....	50
veterans.....	255
Veterans centers, Oahu and Kauai .....	252

## ATTORNEY GENERAL

Automated fingerprint identification system .....	252
Child support	
enforcement .....	24
hearings office .....	105
hearings office .....	105
Civil service commission, counsel on appeal .....	166
Firearms amnesty program .....	204
Health care providers to inmates, defense in actions .....	143
Juvenile justice information system	
appropriation; staff .....	222
missing children reports .....	244
Missing children	
clearinghouse.....	246
reports.....	244

## ATTORNEYS

Community hospitals .....	188
Fees	
assumpsit or promissory actions.....	74
child support enforcement actions .....	247
Labor and industrial relations appeal board .....	92

## BANKS AND BANKING

Financial institutions code, amendments .....	107
---	-----

## BARBERS

Licensing, photograph not required .....	124
--	-----

## BEACHES

Hotels, liability to guests for beach and ocean injuries or loss .....	90
Hurricane, wind damage, or storm surges.....	3
Lifeguards, retirement benefits .....	276

## BOARDS AND COMMISSIONS

Airports cultural development committee.....	252
Aloha spirit task force.....	252
Clean Hawaii center.....	202
Education restructuring commission.....	272
Hospital administration agency task force .....	266

Sexual orientation and law commission.....	217
Student performance standards review commission .....	272
Sunset review of existing programs, repealed.....	279
Underground storage tank program work group.....	203
Videoconference meetings.....	121

## BOATS AND VESSELS

Hawaii Kai marina, dredging of bay .....	231
Impounded vessels	
administrative hearing .....	117
sale.....	113
Interisland shipping of motor vehicle .....	170
Marine inspection, failure to pass .....	113
Oil pollution removal equipment, use tax exemption .....	83
Violations, penalties.....	38
Water carriers, regulation .....	226

## BONDS

Agribusiness development corporation revenue bonds.....	264
Community development authority, district improvement bonds increased.....	149
Convention center revenue bonds .....	Sp 7
General obligation bonds	
amendments to authorization.....	Sp 1
authorization .....	256
convention center .....	Sp 7
Maunaloa Bay dredging .....	231
Housing bonds	
Queen Emma Gardens.....	258
special fund assessment exemption .....	106
Industrial park revenue bonds.....	162
Office of Hawaiian affairs revenue bonds .....	283
Special Purpose Revenue Bonds (this index)	

## BUDGET AND FINANCE

Allotment system, university .....	281
Automatic transfer of funds .....	21
Deputy director position, eliminated.....	223
Education functions and programs, transfer .....	272
Hamakua community development district .....	241
Interactive television system (HITS) program, transfer.....	272
Privatization of new programs .....	263
Rental housing trust fund, amendments.....	147
Special funds assessed for administrative expenses	
Aloha tower fund exemption .....	137
community development authority exemption .....	136
housing bond funds exemption.....	106
spouse and child abuse special accounts .....	232
study .....	252

## BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM

Capital loan program, reuse or recycling businesses .....	202
Clean Hawaii center.....	202
Community development authority	

district improvement bonds, increased .....	149
Kakaako waterfront park .....	252
special fund assessment exemption .....	136
Deputy director positions, eliminated .....	223
Digital imaging video development, Hamakua-Kamuela region .....	252
Ethanol-blended gasoline .....	199
International business center .....	252
Natural energy laboratory of Hawaii, special fund .....	179
Tourism (this index)	
<b>BUSINESS SHUTDOWNS</b>	
Agricultural lands available for diversified agriculture .....	264
Going out of business sales, regulation .....	98
Hamakua Sugar Company	
community development district .....	241
housing loans to employees .....	228
long term leases to employees .....	211
medical services, emergency funding .....	47
Hilo-Hamakua region .....	211
	228
	252
Oahu North Shore regional planning program .....	252
<b>CHILDREN</b>	
Abduction, missing children .....	244
	246
Abuse (this index)	
Adoption, notice to nonconsenting parent .....	8
Child care facilities, special purpose revenue bonds authorization .....	280
Child custody and visitation	
custodial interference .....	245
missing children	
clearinghouse .....	246
reports .....	244
Children's day and week .....	243
Child support	
attorneys fees and cost in actions .....	247
enforcement by agency .....	24
health insurance for dependent child .....	145
hearings office .....	105
Emergency medical service system for children program .....	242
Health insurance, dependent child of employee .....	145
Healthy start and zero-to-three programs .....	252
Kauai disaster relief, psychological support program .....	17
Paternity	
Family Courts (this index)	
<b>CHIROPRACTORS</b>	
Licensing, photograph not required .....	124
<b>CIRCUIT COURTS</b>	
Kalawao, transfer to second circuit .....	103

## CIVIL SERVICE

Public Employment (this index)

## CLAIMS AGAINST THE STATE

Appropriations .....	61
Hawaiian home lands	
individual claims for breach of trust, approved .....	129
Panaewa lot repairs .....	152
State checks and warrants, payment of outstanding items .....	221

## COLLECTIVE BARGAINING

Cost items appropriations	
excluded employees .....	Sp 6
	63
	150
unit 1 .....	64
units 3, 4, 13 .....	63
unit 7 .....	65
unit 9 .....	Sp 5
unit 10 .....	66
unit 11 .....	Sp 3
Education employees, reallocation to learning support centers .....	272
Labor and industrial relations appeal board, functions; employees .....	92

## COMMERCE AND CONSUMER AFFAIRS

Compliance resolution fund	
appropriations .....	252
travel agency cases .....	41
Financial institutions code, amendments .....	107
Post-secondary education, review program .....	189
Social workers, licensing .....	251

## CONDOMINIUMS

Defects and property conditions, disclosures .....	214
Directors, education and training expenses .....	77
Hotel operators, registration and licensing .....	100

## CONSERVATION

Land and Natural Resources (this index)

## CONSTITUTION, STATE

Education	
board of education, appointment, powers .....	272
superintendent, appointment .....	272
Judges, senate confirmation of district court judges .....	SB 2182
Judicial selection commission	
composition .....	SB 2515
list of nominees .....	SB 2294
term limit .....	SB 2513
Special purpose revenue bonds, early childhood education and care .....	280

CONSUMER PROTECTION

Going out of business sales, regulation.....	98
Property defects and conditions, disclosures .....	214
Travel agency recovery fund, payment of claims .....	41
Used motor vehicles, dealer's written warranty.....	224

CONTRACTORS

Fees .....	132
------------	-----

CONVENTION CENTER

Authority, extended .....	75
Design and construction, appropriation .....	252
Funding .....	Sp 7
Site selection and development.....	Sp 7

CORPORATIONS

Agribusiness development corporation, established .....	264
Nonprofit	
charitable gift annuities and endowments .....	127
charitable organizations, donor list.....	35
childhood education and care .....	280
food, shelter, and services to needy.....	250

CORRECTIONS

Correctional industries	
advisory committee membership.....	194
staff.....	252
Correctional officers	
audit of staffing needs, overtime .....	252
overtime expenditures .....	51
Correctional program revolving fund, established.....	131
Nurse shortage differentials .....	252
Population management	
commission, membership.....	155
pretrial detainees release .....	195
transfer of prisoners to out-of-state institutions.....	208
Prisoners and offenders	
correctional programs, fees .....	131
health care providers .....	143
mental health services .....	153
	252
No Hope in Dope program .....	198
pretrial detainees release .....	195
transfer to out-of-state institutions.....	208

COUNTIES

Building codes, energy efficiency standards.....	168
County attorney or corporation counsel, civil service commission appeals .....	166
Employees	
civil service recruitment flexibility .....	223
retirement system special fund, repealed.....	138

Fireworks regulation .....	180
Glass recovery program .....	201
Housing development, permit processing .....	262
Joint and several liability (deep pockets), abolished .....	213
Land development, permit processing .....	260
Lifeguards, retirement benefits .....	276
Nuisances .....	171
Permits	
housing, development, zoning, concurrent processing .....	262
joint public hearings .....	260
Procurement Code (this index)	
Solid waste violations, enforcement .....	210
Streets, sidewalks, and public places; stalls, etc. ....	171
 CREDIT UNIONS	
Sales to, taxation .....	274
 CRIMES AND CRIMINAL JUSTICE	
Bail, district court judges may set .....	181
Child abduction, missing children .....	244
Corrections (this index)	246
Criminal history record checks	
automated fingerprint identification system .....	252
developmentally disabled care providers .....	53
Facsimile drivers licenses .....	46
Juvenile justice information system	
appropriation; staff .....	222
missing children reports .....	244
Nuisances, county regulation .....	171
Paroling authority	
appropriation .....	252
salaries .....	156
Penal Code (this index)	
Probation	
drug offenses .....	229
records release .....	102
 CRIMINAL INJURIES COMPENSATION	
Awards .....	157
Commission, appropriation .....	252
 CULTURE AND THE ARTS	
Airports, cultural displays and activities .....	252
Children's museum, design and construction .....	252
Eco-tourism promotion .....	252
Hawaii nature center, Maui .....	252
Kakaako waterfront park .....	252
Kona coffee heritage park .....	252
Samoan Flag Day, appropriation .....	240
State foundation grants, re-award of moneys .....	252
Waikiki natatorium, restoration .....	252

## DEATH

Certificates, fees .....	232
Education employees, death benefits .....	108
Hotel guests, liability of hotelkeepers .....	90
Simultaneous death act, exceptions .....	6
Terminally ill, emergency medical services instructions .....	173
Wrongful death, actions .....	164

## DEBTORS AND CREDITORS

Armed forces personnel on active duty .....	257
Attorneys fees in action .....	74
Bankruptcy, tax actions suspended .....	20

## DENTISTRY

Dental hygienists, regulation .....	183
Licensing, photograph not required .....	124
Prison inmate services, defense in civil action .....	143

## DETECTIVES AND GUARDS

Licensing .....	122
-----------------	-----

## DISABLED PERSONS

Advisory council on rehabilitation, membership .....	126
Council on independent living, membership .....	126
Developmental disabilities care providers, criminal history checks .....	53
Discriminatory practices, prohibitions .....	88
Long Term Care (this index)	
Mental health services .....	252

## DISASTERS

Appropriations to Kauai county, amendments .....	17
Hurricane, wind damage, or storm surges to coastal zones .....	3
Real property in areas subject to floods and tsunamis, disclosure prior to sale .....	214
Rental housing termination .....	86
School facilities repair, historic preservation .....	236
Tax relief for natural disaster losses, repealed .....	16
Volcanic eruptions, displaced persons lease negotiations extended .....	81

## DISCRIMINATION

Civil rights commission, disclosures .....	139
Relationship or association with person with disability .....	88
Same-sex marriage .....	217

## DISEASES

HIV and other blood borne diseases, infected health care workers .....	265
Tuberculosis inpatient unit and support services .....	252

DISTRICT COURTS

Bail, felony offenses .....	181
Judges, senate confirmation .....	282
	SB 2182
Jurisdictional amount .....	4
Traffic violations	
Motor Vehicles (this index)	

DONATIONS

Charitable gift annuities and endowments .....	127
Donor lists, sale .....	35
Food, shelter, and services to needy, immunity to liability .....	250

DRUGS

Felony offenses, sentencing .....	229
Prescription drugs	
information required .....	172
nurses may prescribe .....	278
out of state prescriptions .....	79
	172
Substance abuse	
education for Hawaii island .....	252
emergency examination and hospitalization .....	58
insurance for treatment, amendments .....	111
No Hope in Dope program .....	198

EDUCATION

Administrative expenses, limits .....	272
Allotment and budget flexibility .....	Sp 8
	272
Board of education, appointment .....	272
Budget and expenditure information, legislative oversight .....	252
Department restructuring .....	272
Early childhood education, special purpose revenue bonds authorization .....	280
Food services, island-produced beef .....	252
Health centers, services .....	252
Learning support centers for curriculum and instruction .....	272
Middle school program .....	252
No Hope in Dope program .....	198
Post-secondary education, review program .....	189
Professional and vocational education	
electricians .....	215
environmental health staff .....	169
naturopaths .....	29
nursing home administrators .....	184
psychologists .....	125
real estate brokers and salespersons .....	68
teachers .....	272
School facilities	
air pollution, indoor air health risks .....	234
disaster damage repair, historic preservation .....	236
master plan .....	272
repair and maintenance program .....	252



security contracts.....	252
School/community-based management, learning support centers.....	272
Special education programs, interagency agreements; classrooms.....	252
Students	
performance standards.....	272
school attendance records, family court use.....	22
student-centered schools.....	272
university enrollment, agreements.....	272
Superintendent, appointment, powers and duties.....	272
Teachers and school staff	
death benefits.....	108
early retirement bonus reductions.....	212
principals, powers and duties; selection.....	272
salaries and classification, sunset repealed.....	82
teacher education center.....	272
University of Hawaii (this index)	
Volunteer parent community network centers.....	252
Young scholars program	
appropriation.....	252
extension.....	134
 ELECTIONS	
Board of education, election repealed.....	272
Campaign fund, depletion.....	167
Campaigning within polling place perimeter, prohibited.....	95
Hawaiian sovereignty plebiscite.....	200
Voter registration, removal of names; transfers.....	119
 ELECTRICIANS	
Licensing, renewal; continuing education.....	215
 EMERGENCY RESPONSE	
Civil defense, after-hours security for facilities.....	154
Drinking water contamination, use of environmental response tax.....	205
Emergency medical services	
ambulance service for Oahu, appropriation.....	237
children's program.....	242
comfort care only instructions; refusing resuscitation.....	173
Lifeguards at public beaches, retirement benefits.....	276
 EMPLOYEES RETIREMENT SYSTEM	
Actuarial valuation and review.....	276
County special funds, repealed.....	138
Death benefits, education employees.....	108
Early retirement bonus.....	212
Funds, deposits into.....	276
Pensioners bonus, extended.....	275
Public safety investigators.....	196
Water safety officers.....	276
 EMPLOYMENT	
JOBS and public assistance work programs, audit.....	252

Labor and Industrial Relations (this index)	
Public Employment (this index)	
Transitional support and training for dislocated workers, Hilo-Hamakua area .....	241
Unemployment compensation, direct sellers; reemployment services.....	112
Wages, interest on unpaid wages .....	84

## ENERGY

Building code efficiency standards .....	168
Energy efficient lighting in state buildings .....	252
Independent power producers, regulation .....	176
Natural energy laboratory of Hawaii, special fund .....	179
Nonfossil fuel producers	
emergency rate increase .....	209
ethanol-blended gasoline facilities .....	199
Public utilities consumer advocate, staff analysts.....	191
Solar electric vehicles, regulations .....	120
State planning, objectives and policies .....	96

## ENVIRONMENT

Air pollution	
clean air branch, position funding .....	252
compliance; penalties .....	268
environmental permit shields .....	268
indoor air quality program .....	234
Conservation districts, regulation .....	270
Eco-tourism promotion .....	252
Enforcement, education, and training, special fund.....	169
Environmental response tax, use.....	205
Hazardous waste	
brokers, regulation.....	267
handling, mixing, packaging, etc.....	267
household waste collection program .....	233
Kahoolawe rehabilitation and restoration .....	161
Noise pollution	
permits and variances, deposit of fees .....	169
real property in designated areas, disclosure prior to sale .....	214
Recycling	
clean Hawaii center .....	202
education and promotion .....	202
glass recovery program.....	201
procurement code requirements.....	186
Solid waste	
disposal, prohibited acts .....	210
enforcement by counties .....	210
household hazardous waste collection program .....	233
Underground storage tanks, financial hardships; release reports .....	203
Water pollution	
administrative penalties .....	269
drinking water contamination.....	205
nonpoint source pollution .....	252
oil pollution removal equipment, use tax exemption.....	83
penalties for violations .....	38

## ESTATE AND TRANSFER TAX

Generation-skipping transfers .....	142
Refund .....	19

## ETHICS COMMISSION

Appropriation .....	1
---------------------	---

## EVIDENCE

Rules of evidence, character evidence, notice of .....	25
School attendance records, family court use .....	22

## FAMILY COURTS

Adoption, notice to nonconsenting parent .....	8
Paternity	
father's acknowledgement as evidence .....	23
genetic tests .....	27
out of state determinations .....	26
Probation records, access to .....	102
School attendance records, court use .....	22

## FINANCIAL INSTITUTIONS

Financial institutions code, amendments .....	107
---	-----

## FINANCIAL SERVICES LOAN COMPANIES

Individual housing accounts .....	49
Voluntary cessation of business and dissolution .....	107

## FIREARMS

Amnesty program .....	204
Ownership, registration, permits, etc. ....	204

## FIREFIGHTERS

Fireworks regulation .....	180
Forest or land fires, amendments .....	140

## FISH AND FISHING

Fishponds	
leasing .....	69
research and demonstration project .....	252
Nets .....	54
Subsistence fishing areas; Molokai demonstration project .....	271

## FOOD

Donations to needy, immunity to liability .....	250
Milk control, amendments .....	144
Schools, island-produced beef used .....	252

FORFEITURES

Criminal forfeitures, amendments .....	178
Firearms offenses .....	204

FOSTER CARE

Adult care providers, criminal history checks .....	53
Foster board payment program	
audit .....	252
emergency appropriation .....	60

FUNDS

Environmental health program enhancement and education fund .....	169
Kahoolawe rehabilitation trust fund .....	161
Missing children’s clearinghouse trust fund .....	246
Nonpresentment of state checks trust fund .....	221
Occupational safety and health training and assistance fund .....	130
Revolving	
community college conference center .....	87
correctional program .....	131
Hawaii agricultural development .....	264
hospital collections .....	192
marketing order .....	264
University laboratory school summer programs .....	239
University intercollegiate athletics revolving funds, reinstated .....	151
Special	
assessment for administrative expenses	
Budget and Finance (this index)	
Clean Hawaii fund .....	202
convention center .....	Sp 7
employees’ retirement system county special fund, repealed .....	138
natural energy laboratory of Hawaii, reinstated .....	179
public utilities commission .....	226
spouse and child abuse special accounts .....	232
tax administration, repealed .....	10

GASOLINE AND PETROLEUM PRODUCTS

Aviation fuel set-aside .....	59
Dumping, water pollution penalties .....	38
Environmental response tax, use of funds .....	205
Ethanol production	
sale of ethanol blends required; facilities .....	199
special purpose revenue bonds .....	219
Fuel tax, refund or credit .....	19
Oil pollution removal equipment, use tax exemption .....	83
Public utilities	
commission regulation .....	226
loss of heavy fuel supply, utility rate increase extended .....	209
Shortages, aviation fuel .....	59
Underground storage tanks, release reports; industry concerns .....	203

GENERAL EXCISE TAX

Exemptions

employee benefit plan rental income, repealed .....	116
hospital income tax, elimination .....	230
manufacturers and producers .....	141
revocable trust requirements .....	12
sales to credit unions .....	274
Sales instate and interstate, manufacturers and producers .....	141

GOVERNOR

Board of education, appointment .....	272
New programs, justification and cost-effectiveness .....	263
University of Hawaii, suspension of budget flexibility .....	281

GRANTS, SUBSIDIES, AND PURCHASES OF SERVICE

Budget appropriations .....	252
Recycling businesses, loans and grants .....	202
State foundation on culture and the arts, re-award of moneys .....	252

HANDICAPPED PERSONS

Disabled Persons (this index)

HAWAII (COUNTY)

Ethanol production plant at Hamakua or Ka'u .....	219
Hamakua community development district .....	211
.....	241
Hawaiian home lands, Panaewa lot repairs .....	152
Hilo-Hamakua	
Hamakua agricultural park .....	252
housing loans and grants .....	228
long term agricultural leases to employees .....	211
Hospitals (this index)	
Kona coffee heritage park .....	252
Natural energy laboratory of Hawaii, special fund .....	179
Substance abuse education .....	252
University of Hawaii, Hilo campus intercollegiate athletics fund .....	151

HAWAIIAN AFFAIRS

Budget .....	253
Projects, funding .....	283
Revenue bonds .....	283

HAWAIIAN HOME LANDS

Abandoned tract, cancellation of lease .....	109
Appraisal upon lease termination .....	109
Breach of trust, individual claims approved .....	129
Mediation and workshops, 999-year homestead leases .....	253
Panaewa lot repairs .....	152
Successor to leasehold interest .....	37

HAWAIIAN PEOPLE

Airport cultural displays and activities .....	252
--	-----

Aloha spirit promotion, task force .....	252
Fishponds, leasing .....	69
Kahoolawe, conveyance; rehabilitation .....	161
Kalapana displaced persons, lease negotiations .....	81
Sovereignty, plebiscite and convention .....	200
Subsistence fishing areas .....	271

## HEALTH

Community health centers, designation .....	238
Deputy director positions, eliminated .....	223
Emergency medical services	
Emergency Response (this index)	
Fees	
environmental health, deposit of funds .....	169
licenses and certificates .....	232
Glass recovery program .....	201
Health care workers infected with blood-borne disease .....	265
Health insurance	
Insurance (this index)	
Health QUEST program	
appropriations; staffing .....	252
free no-fault insurance impact .....	225
hospital and nursing facility tax impact .....	230
public assistance implementation .....	252
qualified health centers .....	238
Hospitals (this index)	
Long Term Care (this index)	
Mental health	
correctional facilities .....	153
emergency examination and hospitalization .....	252
insurance for treatment .....	58
insurance for treatment .....	111
services to disabled .....	252
Nutrition program employees, civil service .....	135

## HIGHWAYS

Bond payments .....	Sp 2
Kuhio highway, Kauai, detour .....	252
Likelike highway traffic flow study .....	252
Recycled crushed glass, use .....	201
T-shaped intersections, parking .....	273

## HISTORICAL PROPERTIES

Historic places register, school facilities .....	236
Kahoolawe, conveyance; rehabilitation .....	161
School facilities repair .....	236

## HOLIDAYS AND CELEBRATIONS

Children's day and week .....	243
Fireworks regulation .....	180
Samoaan Flag Day, appropriation .....	240

## HOSPITALS

Air pollution, indoor air health risks .....	234
Community health centers, designation under health QUEST program .....	238
Community hospitals	
agency for administration and operation .....	266
attorneys .....	188
autonomous operation project	
auditor's review .....	266
expanded .....	188
collections revolving funds .....	192
procurement officer .....	193
rates, fees, charges, equipment purchases .....	192
Hamakua medical center, medical services emergency funding .....	47
Health care workers infected with blood-borne disease .....	265
Hilo	
billing contract costs, appropriation .....	52
collections revolving fund .....	192
family practice center .....	252
name change .....	11
Hospital and nursing facility tax, hospital income tax, elimination .....	230
Kona	
collections revolving fund .....	192
name change .....	11
Leahi, tuberculosis unit and support services .....	252
Maluhia, wait-list demonstration project .....	165
Maui	
billing contract costs, appropriations .....	52
collections revolving fund .....	192
Nurse aides, regulation .....	185
Pohai Nani, long term care center .....	216
Psychiatric examination and hospitalization .....	58
Queen's health systems, special purpose revenue bonds .....	158
Waimanalo health center, appropriations .....	252

## HOTELS

Condominium hotel operators .....	100
Liability to guests for beach and ocean activities .....	90

## HOUSING

Condominiums (this index)	
Construction permit review, contested case hearing .....	261
County permit processing .....	262
Defects and property conditions, disclosures .....	214
Hamakua Sugar Company housing .....	228
Hawaiian home lands, Panaewa lot repairs .....	152
Homeless	
donations, immunity to liability .....	250
renovating facilities .....	250
shelters, appropriations .....	252
Housing finance and development corporation	
loans and grants .....	228
purchase of larger unit .....	14
Queen Emma Gardens acquisition .....	258
special fund assessment exemption .....	106

Queen Emma Gardens, acquisition .....	258
Rental housing	
terminating during disaster or weather warning .....	86
trust fund, amendments .....	147
Termites, biological control .....	252
Veterans, Filipino World War II veterans .....	258

## HUMAN SERVICES

Advisory council on rehabilitation, membership .....	126
Council on independent living, membership .....	126
Deputy director position, eliminated .....	223
Hospital and nursing facility tax, hospital income tax, elimination .....	230
Maluhia wait-list demonstration project .....	165
Nursing home without walls program, annual report repealed .....	110
Public Assistance (this index)	
Spouse and child abuse special account .....	232

## INCOME TAX

Armed services personnel on active duty, collection deferred .....	257
Conformance to Internal Revenue Code .....	13
Credits	
\$1 .....	85
filing of claim .....	18
Individual housing accounts, deposits .....	49
Innocent spouse liability .....	13
Refunds, filing of claim .....	18

## INFORMATION

Child abduction, missing children clearinghouse .....	246
Confidentiality	
charitable organizations, donor list .....	35
civil rights commission investigations .....	139
infected health care workers .....	265
Criminal history record checks	
automated fingerprint identification system .....	252
developmentally disabled care providers .....	53
Department and agency rules, access .....	279
Education department, financial and student information .....	252
	272
Household hazardous waste, education and outreach .....	233
Interactive television system (HITS) program, transfer .....	272
Juvenile justice information system .....	222
	244
Legislature	
public access and participation .....	259
SHADO, appropriation .....	1
Probation and pre-sentence reports, release .....	102
Property defects and conditions, disclosures .....	214
Public records and documents	
tax department written opinions .....	115
tree farm management plans .....	207
Used motor vehicles, disclosure of damages or defects .....	224



## INSURANCE

Amendments .....	128
	190
Annual filings with commissioner .....	128
Captive insurance companies	
amendments .....	190
redomestication .....	128
Examiners revolving fund .....	190
Health insurance	
armed services personnel .....	257
dependent child of employee .....	145
mental health, alcohol, and substance abuse treatment .....	111
prepaid health care act, sunset repealed .....	99
risk-based capital .....	190
Life insurance	
actuarial reserves .....	190
armed forces personnel on active duty .....	257
charitable gift annuities exemption .....	127
risk-based capital .....	190
Motor Vehicles (this index)	
Reinsurance credit, incorporated underwriters .....	34
Title insurance	
insurer or title company may release mortgage .....	78
taxation .....	160

## INTEREST

Armed forces personnel, interest on obligations .....	257
Tax liability .....	15
Unpaid wages .....	84

## INTOXICATING LIQUORS

Brewpubs .....	174
Insurance for treatment, amendments .....	111
Licenses, public hearing notices .....	227
Liquor tax, rate .....	89
No Hope in Dope program .....	198

## INVESTMENTS

Agribusiness development corporation .....	264
Reuse or recycling businesses .....	202

## JUDICIARY

Budget .....	254
Corrections population management commission, membership .....	155
Court costs	
attorneys fees .....	74
child support enforcement .....	247
Employees	
civil service recruitment flexibility .....	223
early retirement bonus reductions .....	212
Family Courts (this index)	
History center, rules .....	7

Judges	
nominees for vacancy, number.....	SB 2294
senate consent to district court judge appointments .....	282
	SB 2182
Judicial selection commission	
composition .....	SB 2515
list of nominees for vacancies .....	SB 2294
term limit.....	SB 2513
Law clerks, civil service exemption.....	93
Process servers, repealed .....	9
Spouse and child abuse special account.....	232

KAHOOLAWE

Kahoolawe island reserve commission, powers and duties .....	161
Rehabilitation trust fund .....	161

KALAPANA

Displaced persons, lease negotiations extended.....	81
---	----

KAPOLEI

Land exchange with George Galbraith estate .....	177
Master plan development.....	252
Underground electric lines.....	177

KAUAI

Disaster relief appropriations, amendments .....	17
Kuhio highway detour, agreement.....	252
Telework center .....	252

LABOR AND INDUSTRIAL RELATIONS

Appeal board, functions; staff.....	92
Discriminatory practices, relationship or association with person with disability .....	88
Occupational safety and health	
training and assistance fund.....	130
unsafe employment for women .....	130
Prepaid health care act, sunset repealed.....	99
School-to-work opportunities study.....	252
Unemployment compensation, worker profiling system .....	112
Wages, interest awarded on unpaid wages.....	84

LABOR ORGANIZATIONS

Real property investments, taxation of income.....	116
--	-----

LAND AND NATURAL RESOURCES

Bonds, industrial park revenue bonds .....	162
Deputy director position, eliminated.....	223
Fire protection, amendments.....	140
Fish and Fishing (this index)	
Forests and forest reserves	
fire protection, amendments .....	140

tree farms.....	207
Maunalua Bay, dredging at Hawaii Kai marina.....	231
Ocean recreation, penalties for violations.....	38
Public Lands (this index)	
Tree farms, harvesting; management plans.....	207
<b>LAND COURT</b>	
Encumbrances, certificate notation.....	206
<b>LANDLORD AND TENANT</b>	
Armed services personnel on active duty, suspension of eviction actions.....	257
Lease, termination during disaster or weather warning.....	86
Transitional facilities for abused family and household members.....	248
<b>LAND USE</b>	
Coastal zone management, hurricane, wind damage, or storm surges.....	3
Conservation districts, regulation.....	270
Housing development	
construction permit review, contested case hearing.....	261
streamlining process.....	262
Land development, streamlining processing.....	260
<b>LEGISLATIVE AUDITOR</b>	
Appropriations.....	1
	279
Capitol renovation consultant.....	252
Community hospitals autonomous operation.....	266
Correctional facilities, staffing needs.....	252
Duties.....	279
Education	
fiscal accountability.....	272
program administration and fiscal audits.....	272
salaries and classification review, repealed.....	82
Foster board payment program, audit.....	252
Hawaii visitors bureau, management and financial audit review.....	252
JOBS, food stamp employment and training, and general assistance work programs.....	252
Procurement code, compliance audit.....	Sp 8
Real estate brokers and salespersons, continuing education.....	68
Special funds assessments, evaluation.....	252
Sunset reviews	
automatic reviews, repealed.....	279
new regulatory programs.....	279
<b>LEGISLATIVE REFERENCE BUREAU</b>	
Appropriation.....	1
Hawaii revised statutes, republication.....	76
Sexual orientation and law commission.....	217
Water code review commission, membership.....	101
<b>LEGISLATURE</b>	
Appropriations.....	1

Capitol renovation, cost containment.....	252
Legislative analyst, education department cooperation .....	252
Public access and participation .....	272
Public access and participation .....	259
LEMON LAW	
Used motor vehicles, dealer's written warranty.....	224
LIBRARIES	
Administrative assistant to state librarian .....	223
Concessions and vending machines, income .....	57
Fines, deposits.....	57
LIMITATION OF ACTIONS	
Hotels, liability for beach and ocean activities .....	90
Injury or wrongful death, construction in real property .....	164
Judgments and decrees, armed forces personnel on active duty .....	257
LIVING WILLS	
Terminally ill, emergency medical services instructions .....	173
LONG TERM CARE	
Adult residential care homes	
community-based care.....	165
program expenditures reimbursement .....	252
Hospital and nursing facility tax, hospital income tax, elimination.....	230
Maluhia wait-list demonstration project, de-institutionalizing patients.....	165
Medicaid recipients, eligibility and liens .....	187
Nurse aides, regulation .....	185
Nursing home administrators, regulation .....	184
Nursing home without walls program, annual report repealed .....	110
Pohai Nani, special purpose revenue bonds.....	216
MARRIAGE	
Income tax liability, innocent spouse.....	13
Licenses	
fees .....	232
male-female couples.....	217
Same-sex relationships .....	217
MEDICAID AND MEDICARE	
Public Assistance (this index)	
MILITARY	
Armed Forces (this index)	
MOLOKAI	
Kalawao, circuit court jurisdiction.....	103

Molokai irrigation system monitoring program .....	159
Subsistence fishing pilot demonstration project .....	271

## MOTOR VEHICLES

Common carriers, regulation .....	226
Dealers	
ownership and registration certificates, transfer .....	70
used motor vehicles .....	224
Drivers licenses	
facsimile .....	46
suspension, proof of financial responsibility .....	197
Forfeiture for firearms offenses .....	204
Insurance	
cancellation, rejection, conditional renewal .....	Sp 4
compliance specialists and investigator .....	128
health care referrals .....	Sp 4
joint underwriting plan, eligibility .....	Sp 4
medical-rehabilitative treatment, peer review .....	225
motorcycles and motor scooters .....	220
proof of financial responsibility exemption .....	128
proof prior to interisland shipping .....	197
public assistance recipients, eligibility .....	170
refund for inappropriate treatment .....	225
traffic abstract fee .....	220
uninsured vehicle coverage .....	73
Motorcycles, motor scooters, and mopeds	Sp 4
electric-powered .....	120
liability insurance .....	128
motorcycle safety training .....	252
Number plates	
fraudulent manufacture and sale .....	72
stored vehicles .....	31
Parking	
rental vehicle citations, unfair trade practices .....	44
T-shaped intersections .....	273
Point assessment, decriminalized traffic offenses .....	94
Registration and transfer	
proof prior to interisland shipping .....	170
transfers .....	70
Rental vehicles	
parking citations, unfair trade practices .....	44
surcharge tax	
Rental and Tour Vehicle Surcharge Tax (this index)	
Shipping interisland .....	170
Solar electric vehicles, regulations .....	120
Taxicab service at airports .....	163
Traffic violations	
abstract fee .....	73
decriminalized offenses, point assessment eliminated .....	94
driver retraining .....	33
parking at T-shaped intersections .....	273
rental vehicle citations, unfair trade practices .....	44
Used motor vehicles, dealer's written warranty .....	224
Vehicle length .....	28
Vehicle weight loads .....	30

NATUROPATHS

Licensing, educational qualifications..... 29  
 Scope of practice..... 71

NURSES

Advanced practice registered nurses  
     prescriptive authority..... 278  
     regulation..... 277  
 Correctional facilities, shortage differentials..... 252  
 Health care workers infected with blood borne disease..... 265  
 Nurse aides, regulation..... 185  
 Prescribing drugs..... 278

OCEAN AND MARINE RESOURCES

Fish and Fishing (this index)  
 Lahaina algal blooms..... 252  
 Natural energy laboratory of Hawaii, special fund..... 179  
 Ocean recreation, hotelkeeper's liability to guests..... 90  
 Penalties for violations..... 38  
 Subsistence fishing areas..... 271  
 Water pollution  
     Environment (this index)

OMBUDSMAN

Appropriation..... 1

OPTOMETRY

Licensing..... 123

OSTEOPATHY

Licensing; interns..... 42

PENAL CODE

Abuse of family and household members  
     cooling off period..... 182  
     transitional facilities..... 248  
 Criminal forfeitures, amendments..... 178  
 Custodial interference..... 245  
 Drug offenses, sentencing..... 229  
 Pre-sentence diagnosis and report, release of records..... 102

PERSONNEL SERVICES

County civil service recruitment flexibility..... 223  
 Department name change..... 56  
 Education functions and programs, transfer..... 272

PHARMACISTS

Out of state prescriptions

information required.....	172
recordation.....	79
Regulation; sunset.....	39
<b>PHYSICIANS AND SURGEONS</b>	
Health care workers infected with blood borne disease.....	265
No-fault insurance claims	
patient referrals.....	Sp 4
peer review.....	220
Prescription drugs, information required.....	172
Prison inmate services, defense in civil actions.....	143
<b>POLLUTION</b>	
Environment (this index)	
<b>POLICE</b>	
Domestic violence, orders to leave premises.....	182
Firearms, regulations.....	204
Missing children reports.....	244
No Hope in Dope program.....	198
<b>PRISONS AND PRISONERS</b>	
Corrections (this index)	
<b>PROBATE</b>	
Simultaneous death act, exceptions.....	6
<b>PROCUREMENT CODE</b>	
Amendments.....	186
Community hospitals.....	193
Enactment.....	Sp 8
Recycled crushed glass, use.....	201
<b>PROFESSIONS AND OCCUPATIONS</b>	
see also specific profession	
Licensing, photographs not required.....	124
Sunset reviews.....	279
<b>PSYCHOLOGISTS</b>	
Emergency examination and hospitalization.....	58
Hurricane Iniki, post-traumatic distress.....	17
Licensing.....	125
Prison inmate services, defense in civil actions.....	143
<b>PUBLIC ASSISTANCE</b>	
Employment and training programs, audit.....	252
Federal fund reimbursement, maximizing.....	252
Financial assistance	

emergency appropriation .....	2
shortfalls, study .....	252
Medicaid	
amendments .....	187
eligibility, assets transfers, liens .....	187
fertility drugs, limitation .....	252
health centers, qualification under health QUEST program .....	238
health QUEST implementation .....	252
Maluhia wait-list project, de-institutionalizing patients .....	165
No-fault insurance, eligibility .....	225
<b>PUBLIC BROADCASTING AUTHORITY</b>	
Interactive television system (HITS) program, transfer .....	272
<b>PUBLIC BUILDINGS</b>	
Air pollution, indoor air quality program .....	234
Capitol renovation, cost containment .....	252
Concessions on public property, libraries .....	57
Energy efficiency standards in building codes .....	168
Energy efficient lighting (green lights program) .....	252
Office leasing expenditure reductions .....	252
Operation and maintenance rules .....	45
Outdoor advertising at stadium .....	118
<b>PUBLIC CONTRACTS</b>	
Hawaii products preference, requirements .....	186
Procurement Code (this index)	
Public works projects, crushed glass aggregate, requirements .....	201
Software development, requirements .....	186
University research corporation .....	97
<b>PUBLIC EMPLOYMENT</b>	
Civil service	
appeal hearings .....	166
commission, counsel for .....	166
conversions .....	135
	252
exemptions	
administrative assistant to state librarian .....	223
law clerks .....	93
deputy directors, positions eliminated .....	223
recruitment flexibility .....	223
Collective Bargaining (this index)	
Death benefits, education employees .....	108
Employees Retirement System (this index)	
Juvenile justice information system, staff .....	222
Labor and industrial relations appeal board .....	92
No-fault insurance specialists and investigator .....	128
Public utilities consumer advocate, staff analysts .....	191
Reduction in positions, early retirement bonus impact .....	212
Rental housing trust fund commission, staff .....	147
Transfer of employees	
correctional mental health employees .....	153



defense facilities security personnel .....	154
education department .....	252
health QUEST program .....	272
Volunteers, health care providers .....	252
Workers compensation, return-to-work program and medical review panel .....	250
Workers compensation, return-to-work program and medical review panel .....	252
<b>PUBLIC LANDS</b>	
Conservation districts, regulation .....	270
Eminent domain, Queen Emma Gardens acquisition .....	258
Exchanges, Kapolei .....	177
Leases	
agricultural leases	
extension .....	162
Hilo-Hamakua region .....	211
agricultural parks, lease rent .....	218
extension .....	175
fishponds .....	69
industrial leases, modifications .....	114
industrial parks, rates; bonds .....	162
Kalapana displaced persons .....	81
<b>PUBLIC SAFETY</b>	
Appropriation, emergency .....	51
Corrections (this index)	
Defense facilities, after-hours security .....	154
Education department, security contracts .....	252
Investigators, retirement benefits .....	196
Paroling authority	
appropriations .....	252
salaries .....	156
<b>PUBLIC UTILITIES</b>	
Commission, special fund; fees .....	226
Consumer advocate	
funding .....	226
telecommunications or energy utility planning analysts .....	191
Electrical transmission lines	
underground construction costs .....	133
underground lines at Kapolei .....	177
Irrigation facilities exemption .....	264
Non-utility generator, regulation .....	176
Rate increases, loss of heavy fuel supply .....	209
Surcharges .....	226
Telephone service, alternative providers to under-served areas .....	80
<b>RADIOLOGY</b>	
Licensing, deposit of fees .....	169
<b>REAL PROPERTY</b>	
Appraisals, Hawaiian home land improvements .....	109
Brokers and salespersons	

continuing education .....	68
disclosure of property conditions .....	214
licensing, amendments .....	100
Construction, actions for damages or injury .....	164
Conveyance tax, refund or credit .....	179
Criminal forfeitures.....	19
Defects and conditions, seller's duty to disclose .....	214
Disaster areas, disclosure of property in .....	214
Generation-skipping transfers .....	142
Lease income, employee benefit plans .....	116
Liens	
armed forces personnel on active duty, suspension of obligation .....	257
medicaid recipients.....	187
Mortgages	
public lands, lease extensions.....	114
title insurer or title company may release.....	175
title insurer or title company may release.....	78
Registered land, encumbrances.....	206
Rescinding purchase, property defect.....	214
Title insurance	
insurer or title company may release mortgage.....	78
taxation .....	160

RENTAL AND TOUR VEHICLE SURCHARGE TAX

Bankruptcy proceedings .....	20
Refund or credit .....	19

REPORTS OR STUDIES

Agribusiness development corporation.....	264
Airports	
budget reports .....	252
rates, rentals, fees, charges .....	62
taxi service master plan .....	163
Aloha tower development corporation, waterfront special account.....	137
Attorney general	
fingerprint identification system.....	252
firearms amnesty program.....	204
missing children's clearinghouse .....	246
Business, economic development, and tourism	
budget reports .....	252
ethanol production .....	199
Capitol renovation .....	252
Clean Hawaii center.....	202
County civil service recruitment flexibility .....	223
Education	
budget reports .....	252
department restructuring.....	272
young scholars program .....	134
Employees retirement system	
actuarial valuation and review.....	276
early retirement bonus impact .....	212
Hawaii visitors bureau .....	55
.....	252
Hawaiian affairs, budget reports .....	253
Health	

budget reports .....	252
environmental health program special fund .....	169
glass recovery program.....	201
household hazardous waste collection program .....	233
Maluhia wait-list demonstration project.....	165
underground storage tank program.....	203
Hilo-Hamakua region, housing loans and grants .....	228
Hospitals	
administration agency.....	266
collections revolving funds.....	192
Human services, budget reports.....	252
Judiciary, budget reports.....	254
Labor and industrial relations	
budget reports .....	252
occupational health and safety.....	130
Marriage, same-sex couples.....	217
Molokai subsistence fishing pilot demonstration project.....	271
Motorcycle safety training.....	252
Nurses, prescriptive authority .....	278
Nursing home without walls program, annual report repealed .....	110
Oahu North Shore regional planning .....	252
Office leasing expenditure reduction .....	252
Procurement code .....	Sp 8
Public safety	
budget reports.....	252
correctional program revolving fund.....	131
overtime expenditures .....	51
.....	252
pretrial detainees release program .....	195
Public utilities commission	
rate increase for loss of heavy fuel supply .....	209
special fund .....	226
Queen Emma Gardens acquisition.....	258
Real estate brokers or salespersons, continuing education .....	68
Special funds assessment requirements .....	252
Special purpose revenue bonds for utility companies.....	148
Spouse and child abuse special accounts .....	232
Tax department, collection data.....	252
Termite control .....	252
University of Hawaii	
budget flexibility suspension.....	281
budget reports.....	252
carryover of funds .....	281
Waiahole-Waikane community development plan.....	252

## SALES

Cigarettes and tobacco products, tax .....	104
Direct sellers, unemployment compensation .....	112
Drivers licenses, facsimile.....	46
Ethanol-blended gasoline, requirements .....	199
Fireworks regulation.....	180
Glass containers .....	201
Going out of business, creditor's, or damaged goods sales .....	98
Motor vehicle license plates, fraudulent plates .....	72
Sidewalk vendors, county regulation .....	171
Time sharing plans, promotional or sales activities.....	91

Used motor vehicles, dealer's written warranty .....	224
Vending machines in libraries .....	57
<b>SCHOOLS</b>	
Education (this index)	
<b>SERVICE OF PROCESS</b>	
Adoption notice .....	8
Child support enforcement administrative process .....	105
Process servers, repealed .....	9
<b>SMOKING</b>	
Cigarette and tobacco tax, amendments .....	104
Forests and natural area reserves, restrictions .....	140
<b>SOCIAL WORKERS</b>	
Licensing .....	251
<b>SOLICITORS</b>	
Professional fundraisers and solicitors, donor list .....	35
<b>SPECIAL PURPOSE REVENUE BONDS</b>	
Energy Associates of Hawaii, ethanol production plant .....	219
Hawaii Electric Light, Hawaiian Electric, and Maui Electric companies .....	148
Nonprofit childhood educational corporations, authorization .....	280
Pohai Nani Care Center .....	216
Queen's Health Systems .....	158
<b>SPORTS</b>	
Rodeos, polo, horse riding, etc., limited liability .....	249
Stadium, outdoor advertising .....	118
University of Hawaii, intercollegiate athletics revolving funds, reinstated .....	151
<b>STATE DEPARTMENTS</b>	
Boards and Commissions (this index)	
Construction permit review, contested case hearing .....	261
Education restructuring, transfers of functions and programs .....	272
Indoor air quality program .....	234
Inventory management, surplus property .....	186
Joint and several liability (deep pockets), abolished .....	213
Land development, streamlining processing .....	260
New programs, privatization .....	263
Office leasing expenditure reduction .....	252
Procurement Code (this index)	
Rules, publication and copies .....	279
Special funds assessment requirements .....	252
University research corporation contracts .....	97

STATE PLANNING

Energy, telecommunications, transportation.....	96
Kahoolawe conveyance to State .....	161
Oahu North Shore regional planning program.....	252
Waiahole-Waikane community development plan .....	252

STATUTES

General technical revisions .....	5
Hawaii revised statutes, republication .....	76
Personnel services department, name change .....	56

SUGAR

Ethanol production	
facilities; sale of ethanol blends .....	199
special purpose revenue bonds .....	219
Hamakua Sugar Company	
Business Shutdowns (this index)	
Hawaiian Sugar Planters Association, experiment station.....	235

SUNSET

Abuse of family and household members, cooling off period .....	182
Adult residential care homes, community-based .....	165
Agricultural leases	
extended .....	162
Hilo-Hamakua region .....	211
Civil service recruitment flexibility, sunset repealed.....	223
Clean Hawaii center.....	202
Community hospitals	
administration agency task force .....	266
autonomous operation project expansion .....	188
chief procurement officer .....	193
financial operations .....	192
Convention center authority, extended .....	75
Dental hygienists .....	183
Education	
learning support centers.....	272
salaries and classification, sunset repealed.....	82
Employees retirement system	
pensioners bonus, extended .....	275
county special fund, repealed .....	138
Environmental health program enhancement and education fund .....	169
Going out of business sales, regulation.....	98
Hawaiian home lands, Panaewa lot repairs.....	152
Hawaiian sovereignty elections council.....	200
Historic preservation, school facilities.....	236
Insurance	
mental health, alcohol, and substance abuse treatment, extended .....	111
no-fault specialists and investigator .....	128
prepaid health care act, sunset repealed.....	99
risk-based capital, actuarial reserves, etc.....	190
Kahoolawe rehabilitation trust fund.....	161
Kalapana displaced persons, lease negotiations.....	81
Kapolei land exchange.....	177

Maluhia hospital, wait-list demonstration project.....	165
Missing children clearinghouse .....	246
Molokai subsistence fishing demonstration project.....	271
Nurse aides.....	185
Nursing .....	277
Nursing home administrators .....	184
Occupational safety and health training and assistance fund .....	130
Oil pollution removal equipment, use tax exemption .....	83
Pharmacists .....	39
Professional and vocational licensing, sunset reviews .....	279
Public land leases, extensions .....	175
Social worker licensing program .....	251
Solar electric powered vehicles .....	120
Special purpose revenue bonds, child care .....	280
Travel agencies .....	40
University of Hawaii	
allotment and budget flexibility.....	Sp 8
carryover of funds .....	281
veterans' tuition waivers .....	281
veterans' tuition waivers .....	255
Utility increase due to loss of heavy fuel supply, extended.....	209

## TAXATION

Armed forces personnel on active duty.....	257
Cigarette and tobacco tax, amendments.....	104
Hospital and nursing facility tax, hospital income tax, elimination.....	230
Insurance, real property title .....	160
Interest payment.....	15
Refund or credit .....	19
Statute of limitations, bankruptcy proceedings.....	20
Tax department	
administration fund, repealed .....	10
deputy director position, eliminated .....	223
staffing, appropriations.....	252
written opinions, public disclosure.....	115
Tax relief for natural disaster losses, repealed.....	16

## TELECOMMUNICATIONS

Boards and commissions, videoconference meetings .....	121
Digital imaging video development.....	252
Education department, data warehouse system.....	252
Hospital equipment purchases .....	192
Interactive television system (HITS) program, transfer.....	272
Legislature, public access and participation .....	259
Public utilities	
consumer advocate, staff analysts .....	191
providers and services, regulation .....	80
State planning, objectives and policies .....	96
Telework center for Kauai .....	252

## TIME SHARING

Amendments .....	91
------------------	----

## TORTS

Firearm owners, liability .....	204
Hotels, liability to guests for beach and ocean injuries or loss .....	90
Immunity to liability	
child support enforcement hearing officers .....	105
equine activities .....	249
food, shelter, and services to needy .....	250
volunteer health care providers .....	250
Injury or wrongful death, statute of limitations .....	164
Medical peer review, no-fault insurance claims .....	220
State tort liability	
health care providers to inmates .....	143
joint and several liability (deep pockets), abolished .....	213

## TOURISM

Airport taxi service master plan .....	163
Aloha spirit task force .....	252
Convention Center (this index)	
Deputy director position, eliminated .....	223
Destination marketing organization, coordination of plans .....	67
Eco-tourism promotion .....	252
Hawaii visitors bureau	
appropriations .....	252
contract; annual report .....	55
management and financial audit review .....	252
Hotels, liability to guests for beach and ocean injuries or loss .....	90
Marketing council, tourism marketing plan .....	32
	67
	91
Time sharing plans, promotional or sales activities .....	91
Tour vehicles surcharge tax	
Rental and Tour Vehicle Surcharge Tax (this index)	
Waikiki (this index)	

## TRADE REGULATIONS

Fireworks regulation .....	180
Going out of business, creditor's, or damaged goods sales .....	98
Interisland air carriers, qualification .....	146
Time sharing plans, promotional or sales activities .....	91

## TRAFFIC VIOLATIONS

Motor Vehicles (this index)

## TRANSIENT ACCOMMODATIONS TAX

Convention center funding .....	Sp 7
Refund or credit .....	19

## TRANSPORTATION

Airports (this index)	
Boats and Vessels (this index)	
Deputy director position, eliminated .....	223

State planning, objectives and policies .....	96
Telework center for Kauai .....	252
<b>TRAVEL AGENCIES</b>	
Education fund, payment of claims.....	41
Sunset.....	40
<b>TRUSTS AND TRUSTEES</b>	
Estate and transfer tax, generation-skipping transfer tax .....	142
Revocable trusts, excise tax requirements .....	12
<b>UNITED STATES</b>	
Federal funds reimbursement, human services programs .....	252
Kahoolawe conveyance to State .....	161
Post-secondary education, review program .....	189
Surplus property sale and purchase, procurement code requirements .....	186
<b>UNIVERSITY OF HAWAII</b>	
Allotment and budget flexibility	
extension.....	Sp 8
permanent .....	281
Asian Pacific center for architecture program .....	252
Carryover of funds .....	281
Community colleges	
aviation instructional courses .....	252
conference center revolving fund .....	87
utility expenses report .....	252
Faculty and staff	
collective bargaining cost items .....	65
early retirement bonus reductions .....	212
housing assistance .....	252
Interactive television system (HITS) program, transfer.....	272
Intercollegiate athletics revolving funds, reinstated.....	151
Laboratory school, summer programs revolving fund .....	239
Outdoor advertising at stadium .....	118
Post-secondary education, review program .....	189
Research corporation, contracts .....	97
Teacher education center .....	272
Tuition waivers	
veterans, extended .....	255
national guard dependents .....	50
West Oahu campus	
long range plans.....	252
underground electrical lines .....	177
<b>USE TAX</b>	
Oil pollution removal equipment, exemption .....	83
<b>VETERANS</b>	
Housing, Filipino World War II veterans .....	258



Oahu and Kauai veterans centers .....	252
Tuition waivers .....	255
VITAL STATISTICS	
Birth, death, marriage certificates, fees .....	232
Paternity, acknowledgement by father.....	23
WAIKIKI	
Convention center	
authority, extended .....	75
design and construction, appropriations .....	252
site selection and development .....	Sp 7
Natatorium, restoration .....	252
WASTE	
Environment (this index)	
WATER RESOURCES	
Drinking water contamination, use of environmental response tax .....	205
Molokai irrigation system monitoring program .....	159
Waikolu stream, well development impact .....	159
Water code review commission	
appropriation .....	1
membership .....	101
Water pollution	
Environment (this index)	
WELFARE	
Public Assistance (this index)	
WORKERS COMPENSATION	
Return-to-work program and medical review panel .....	252
YOUTH SERVICES	
Juvenile justice information system	
appropriation; staff .....	222
missing children reports .....	244