

**SESSION LAWS**  
**OF**  
**HAWAII**  
**PASSED BY THE**  
**TWENTY-FOURTH STATE LEGISLATURE**  
**STATE OF HAWAII**

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**REGULAR SESSION**  
**2007**

Convened on Wednesday, January 17, 2007 and  
Adjourned sine die on Thursday, May 3, 2007

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**SPECIAL SESSION**  
**2007**

Convened on Tuesday, July 10, 2007 and  
Adjourned sine die on Tuesday, July 10, 2007

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State of Hawaii  
Honolulu, Hawaii

## PREFACE

This volume contains all of the laws enacted by the Hawaii State Legislature during the Regular and Special Sessions of 2007.

The text of the laws is printed in full except for laws repealing existing statutes. With the exception of certain obvious typographical errors which have been corrected, the text of the laws as enacted is followed.

Statutory material that is being repealed is either bracketed or bracketed and stricken. New material is indicated by underscoring. As authorized by Section 23G-16.5, Hawaii Revised Statutes, the text is edited to omit the bracketed material for HRS sections being repealed in their entirety, and to omit the underscoring for new HRS sections.

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

Ken H. Takayama  
Revisor of Statutes

Honolulu, Hawaii  
July 10, 2007

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**Session Laws of Hawaii  
Passed By The  
Twenty-Fourth State Legislature  
Regular Session  
2007**

**ACT 1**

S.B. NO. 25

A Bill for an Act Relating to the Legislature.

*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 \$7,694,360, 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, 2008, including the 2007 regular session, twenty-fourth legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 2007 and 2008 regular sessions.

The sum appropriated in this section shall be expended by the senate.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$11,670,163, 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, 2008, including the 2007 regular session, twenty-fourth legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 2007 and 2008 regular sessions.

The sum appropriated in this section shall be expended by the house of representatives.

SECTION 3. Payment of expenses of the senate during the interim between the 2007 and 2008 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 2007 and 2008 sessions shall be made only with the approval of the speaker of the house of representatives.

SECTION 4. Before January 16, 2008, the senate and the house of representatives shall each have their accounts audited and a full report of the respective audits shall be presented to the senate and to the house of representatives convening on January 16, 2008.

SECTION 5. Unless otherwise prescribed by law, the expenses of any member of the legislature while traveling abroad on official business of the legisla-

## ACT 1

ture shall be \$130 a day as 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 \$3,646,810, or so much thereof as may be necessary, to the office of the auditor for the following expenses:

- (1) The sum of \$2,692,572, for defraying the expenses of the office of the auditor during fiscal year 2007-2008;
- (2) The sum of \$804,238, for defraying the expenses of the office of the state ethics commission during fiscal year 2007-2008; and
- (3) The sum of \$150,000, during fiscal year 2007-2008 for:
  - (A) Performing special studies;
  - (B) Improving capabilities for planning, programming, and budgeting;
  - (C) Fulfilling other special requests made of the auditor by the legislature or jointly by the president of the senate and the speaker of the house of representatives;
  - (D) Legislative studies and contractual services for those studies; and
  - (E) 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.

The sum appropriated in this section shall be expended by the auditor.

**SECTION 7.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,221,820, or so much thereof as may be necessary, to the office of the auditor during fiscal year 2007-2008 to be deposited into the audit revolving fund established pursuant to section 23-3.6, Hawaii Revised Statutes.

**SECTION 8.** There is appropriated out of the audit revolving fund the sum of \$5,600,438, or so much thereof as may be necessary, to the office of the auditor during fiscal year 2007-2008, for the auditor to conduct or complete its audit functions as provided by law.

The sum appropriated in this section shall be expended by the auditor.

**SECTION 9.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,223,008, or so much thereof as may be necessary, to the legislative reference bureau for defraying the expenses of the legislative reference bureau during fiscal year 2007-2008, including equipment relating to computer systems programming and operations.

The sum appropriated in this section shall be expended by the legislative reference bureau.

**SECTION 10.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$971,500, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during fiscal year 2007-2008.

The sum appropriated in this section shall be expended by the ombudsman.

**SECTION 11.** 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:

- (1) \$900,000 to the senate; and
- (2) \$900,000 to the house of representatives.

This appropriation shall be used to pay for hardware, software, consultant, installation, material, supply, and other related costs associated with the legislative information system that have been or will be incurred.

SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the sum of \$175,000, or so much thereof as may be necessary, for the legislative broadcast program, including the production and distribution of television broadcasts of legislative proceedings.

The sum appropriated in this section shall be expended by the legislature for the purposes of this section.

SECTION 13. Except for moneys in the audit revolving fund, as of the close of business on June 30, 2008, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 14. In accordance with section 9 of article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 has already been exceeded by \$90,137,694 or 1.68 per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$21,339,523, or an additional 0.40 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

SECTION 15. Each section of this Act is declared to be severable from the remainder of this Act.

SECTION 16. This Act shall take effect upon its approval.

(Approved February 20, 2007.)

## ACT 2

H.B. NO. 1073

A Bill for an Act Relating to the Employees' Retirement System.

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

SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

**“§88- Session employees of the legislature; exempt from mandatory enrollment.** (a) Notwithstanding section 88-42 or any other section in part II, VII, or VIII, any person who is employed as a session employee by the legislature or any legislative service agency after October 31, 2006, to provide services during any session of the legislature and who is not subject to section 88-54 shall be excluded from membership in the employees' retirement system throughout the person's employment as a session employee.

(b) For the purposes of this section, “session employee” means a person who is not subject to section 88-54 and who is employed by the legislature or any legislative service agency to provide services during any session of the legislature,

## ACT 2

including a reasonable period immediately prior to and after that session as the legislature and legislative service agencies shall determine.”

SECTION 2. Section 88-21, Hawaii Revised Statutes, is amended by amending the definition of “employee” to read as follows:

““Employee”: any employee or officer of the State or any county, including inspectors, principals, teachers and special teachers, regularly employed in the public schools, cafeteria managers and cafeteria workers, apprentices and on-the-job trainees whether or not supported in whole or in part by any federal grants, members of the legislature and other elective officers, including the trustees of the office of Hawaiian affairs, year-round legislative employees who are employed on a full-time basis [~~during and between sessions~~], probationary and provisional employees, any employee of the educational nonprofit public corporation as provided in section 88-49.7, per diem employees and others who are made eligible by reason of their employment to membership in the system by or pursuant to any other provision of law, but excluding:

- (1) Per diem employees who elect to withdraw or not to become members as provided in section 88-42;
- (2) Members of the legislature who do not elect to be members as provided in section 88-42;
- (3) Session employees of the legislature employed after October 31, 2006, in accordance with section 88- ; and
- ~~(3)~~ (4) Persons excluded by rules of the board pursuant to section 88-43.

An individual is an employee during the period of a leave of absence if the individual is in service, as defined in this part, during the period of the leave of absence and the board shall determine who are employees within the meaning of this part.”

SECTION 3. Section 88-51, Hawaii Revised Statutes, is amended to read as follows:

“**§88-51 Membership service generally.** Membership service includes:

- (1) Service by an employee rendered since becoming a member;
- (2) Service rendered prior to becoming a member but (A) subsequent to January 1, 1926, by an employee of the State or (B) subsequent to January 1, 1928, by an employee of any county;
- (3) Service as an employee of the federal government where the function carried on by the government has been transferred to the State or any county, or where the employee has been transferred to the federal government and subsequently retransferred to the State or any county;
- (4) Service rendered by an employee in the office of the delegate to Congress from Hawaii, or service rendered by an employee in the office of a representative or a senator to Congress from the State; provided that (A) the employee was a member of the system immediately preceding the time the employee renders such service; (B) the employee reenters the service of the State or county within one year after termination of such service; and (C) the employee has, to the satisfaction of the board of trustees, waived the employee’s right to any credit under the Civil Service Retirement Act (5 U.S.C.A. 2251) based upon such service; provided further that credit for such service shall not exceed eight years;

- (5) Service as an employee of the Hawaii territorial guard;
- (6) Service while engaged in professional improvement pursuant to an approved leave of absence for such purpose, with or without pay;
- (7) Service between the years 1941 and 1947 with federal defense agencies, where the employee was employed by the government before the wartime service, went into defense work at the direction of the employee's employer, and returned to government service at the end of the wartime service; provided that these circumstances shall be verified by evidence satisfactory to the board of trustees;
- (8) Service, not exceeding four years, in the military service of the United States during the period 1941-1949 rendered by an employee who was employed by the Territory or county prior to the employee's induction into the military and who subsequently returned to employment of the Territory or county following the employee's discharge;
- (9) Service rendered prior to becoming a member as a full-time employee at the Leahi Hospital or Pahala Hospital, now known as Ka'u General Hospital, Puunene Hospital, Waimea Hospital, Waimea, Kauai, Haliimaile Dispensary, and Paia Hospital and Pioneer Mill Hospital;
- (10) Service rendered prior to becoming a member as a full-time sheriff or deputy sheriff in the office of the sheriff;
- (11) The period of time when a member was absent from work because of injuries incurred within the scope of the member's employment and who has received workers' compensation benefits prior to July 1, 1967;
- (12) Service rendered as ~~an~~ a full-time, year-round employee of the legislature during any legislative session~~;~~, except for service rendered as a session employee, as defined in section 88- , and employed after October 31, 2006;
- (13) Service as a school cafeteria manager or worker if paid by the State regardless of the source of funds from which paid; provided that twelve months' service shall be credited for the time such a person was working on a nine-month schedule during a school year; and
- (14) Service rendered as a trustee of the office of Hawaiian affairs during the period of July 1, 1993, through June 30, 2002.

Membership service shall only be credited for any period for which the member makes the required contributions to the system."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval and shall apply retroactively to all session employees of the legislature and legislative service agencies employed after October 31, 2006.

(Approved March 5, 2007.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Schools.

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

SECTION 1. Act 186, Session Laws of Hawaii 2005, makes the department of education responsible for ensuring that asbestos testing is conducted prior to any exterior or interior renovations or painting of school facilities, if the surfaces have not been previously tested.

The federal Asbestos Hazard Emergency Response Act of 1986 requires asbestos testing on interior surfaces only if there are suspected asbestos-containing materials that would be affected during renovation or painting of school facilities.

The legislature finds that the current law, which requires testing of any surfaces, can result in unnecessary costs.

The purpose of this Act is to clarify that asbestos testing of school facilities is to be conducted only on all suspected asbestos-containing materials, including exterior surfaces, and as required by the federal Asbestos Hazard Emergency Response Act of 1986 for interior surfaces, prior to any exterior or interior renovations or painting of school facilities, including conversion charter school facilities.

SECTION 2. Act 186, Session Laws of Hawaii 2005, is amended by amending section 2 to read as follows:

“SECTION 2. The department of education shall be responsible for ensuring that asbestos testing is conducted on all suspected asbestos-containing materials, including exterior surfaces, and as required by the federal Asbestos Hazard Emergency Response Act of 1986 for interior surfaces, prior to any exterior or interior renovations or painting of school facilities at all department of education and conversion charter schools~~[, except charter schools,]~~; provided that the surfaces have not previously been tested.”

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

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

(Approved March 27, 2007.)

A Bill for an Act Relating to a Grant to Kahuku Hospital.

*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. The legislature finds that it is in the public interest to keep Kahuku Hospital operating in order to serve the residents of the north shore of Oahu by enabling it to file for chapter 11 reorganization bankruptcy, rather than for chapter 7 liquidation bankruptcy, which would allow the hospital to: continue

operations; preserve its hospital license; retain its certificate of need and critical access hospital designation; reorganize; and settle its debts. The board of directors of Kahuku Hospital has agreed to continue the hospital’s operations into the first half of 2007 under a chapter 11 reorganization proceeding pending the enactment of legislation that will have the effect of causing Kahuku Hospital to be acquired by Hawaii health systems corporation, or otherwise to become affiliated with the Hawaii health systems corporation.

The purpose of this Act is to appropriate \$950,000 as a grant, pursuant to chapter 42F, Hawaii Revised Statutes, to Kahuku Hospital on Oahu for fiscal year 2006-2007. The grant will permit Kahuku Hospital to maintain operations, to cover the costs associated with the chapter 11 reorganization and the potential transfer of hospital operations to the Hawaii health systems corporation.

The legislature finds and declares that this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$950,000, or so much thereof as may be necessary for fiscal year 2006-2007, as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to Kahuku Hospital on Oahu to continue its operations; preserve its hospital license; retain its certificate of need and critical access hospital designation; reorganize; and settle its debts.

The sum appropriated shall be expended by the department of health.

SECTION 4. In accordance with section 9 of article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 (established at \$5,357,987,705 on November 8, 2006) has already been exceeded by \$90,137,694 or 1.68 per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$950,000, or an additional 0.018 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

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

(Approved March 29, 2007.)

**ACT 5**

H.B. NO. 1226

A Bill for an Act Making an Emergency Appropriation for Electricity Payments Statewide.

*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. The purpose of this Act is to make an emergency appropriation to address a projected \$626,000 deficit in electricity payments for the department of accounting and general services-managed facilities statewide. Since local utility

## ACT 6

companies are dependent upon oil as the primary source of fuel, high world oil prices have directly contributed to this shortfall. Although kilowatt per hour consumption has remained flat or decreased, increased worldwide demand and geopolitical concerns all contribute to keep oil prices high. Based on a combination of actual bills paid and projected cost, the shortfall for fiscal year 2006-2007 is anticipated to be \$626,000 statewide. Without an emergency appropriation, the program must defer payment on its June 2007 bill.

SECTION 3. In accordance with section 9 of article VII, of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 has already been exceeded by \$90,137,694 or 1.68 per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$626,000, or an additional 0.012 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$626,000 or so much thereof as may be necessary for fiscal year 2006-2007 for the purpose of paying electricity bills.

The sum appropriated shall be expended by the department of accounting and general services.

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

(Approved April 3, 2007.)

## ACT 6

S.B. NO. 60

A Bill for an Act Relating to Foreign Time Share Plans.

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

SECTION 1. Section 514E-5.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§514E-5.5]]~~ **Foreign time share plans; exemption.** (a) A foreign time share plan may obtain an exemption from the requirements of this chapter as provided in this section.

(b) The developer of a foreign time share plan shall pay an exemption fee of \$100 and file the following minimum information pertaining to the foreign time share plan with the director:

- (1) The name and address of the foreign time share plan;
- (2) The name and address of the developer and seller of the foreign time share plan, if any;
- (3) The name and registration number of the time share plan located in Hawaii; provided that the registration shall be active at the time of filing under this subsection; and
- (4) The duration of the foreign time share plan.

(c) Time share interests that are part of a foreign time share plan exempt under this section shall not be resold in the United States.

(d) The developer of a foreign time share plan exempt under this section shall not subject time share interests or units in the foreign time share plan that are located in Hawaii to blanket liens.

(e) The contract to purchase an interest in a foreign time share plan exempt under this section shall contain the following disclosure in conspicuous type immediately above the space provided for the purchaser's signature:

“THE OFFERING AND OPERATION OF THIS TIME SHARE PLAN OUTSIDE THE JURISDICTIONAL LIMITS OF THE UNITED STATES OF AMERICA IS EXEMPT FROM REGULATION UNDER HAWAII LAW, AND ANY SUCH PURCHASE AND OPERATION OF THIS TIME SHARE PLAN IS NOT PROTECTED BY THE LAWS OF THE STATE OF HAWAII. NO RESALE OF INTERESTS IN THIS TIME SHARE PLAN MAY BE MADE BY ANY PERSON WITHIN THE JURISDICTIONAL LIMITS OF THE UNITED STATES OF AMERICA. THE MANAGEMENT AND OPERATION OF ANY ACCOMMODATIONS OR FACILITIES LOCATED IN HAWAII, HOWEVER, ARE SUBJECT TO HAWAII LAW, AND MAY GIVE RISE TO AN ENFORCEMENT ACTION REGARDLESS OF WHERE THE OFFER WAS MADE.”

(f) All promotional literature and other printed or written material used in connection with the sale of interests in a foreign time share plan exempt under this section shall include the following caption:

“This time share plan is exempt from registration under Hawaii law and, therefore, [any] the purchase and operation of this time share plan is not protected by the laws of the State of Hawaii.”

(g) For the purposes of this section, “foreign time share plan” means a time share use plan that:

- (1) Contains time share interests or units located in Hawaii that are part of a Hawaii time share plan; and
- (2) Is offered and sold solely outside the jurisdictional limits of the United States.

(h) Failure by the developer to abide by the requirements for the exemption shall result in the loss of the exemption and shall require registration under this chapter.”

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

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

(Approved April 4, 2007.)

**ACT 7**

H.B. NO. 1427

A Bill for an Act Relating to Motor Vehicles.

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

SECTION 1. Section 249-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

## ACT 7

“(b) Upon an original registration the director of finance shall fix, and shall charge to the owner, a fee equal to the cost of the number plate and tag or emblem plus the administrative cost of furnishing the plate and tag or emblem and effecting the registration. Upon the issuance of a new series of number plates as determined by the directors of finance of each county through majority consent, the director of finance shall charge the owner a fee equal to the costs of the number plate plus the administrative cost of furnishing the plates. Upon issuing a tag or emblem, the director of finance shall charge the owner a fee of 50 cents. The owner shall securely fasten the number plates on the vehicle, one on the front and the other on the rear, at a location provided by the manufacturer or in the absence of such a location upon the bumpers of the vehicle and in conformance with section 291-31, in such a manner as to prevent the plates from swinging [~~and at a minimum of twelve inches from the ground~~]. Number plates shall at all times be displayed entirely unobscured and be kept reasonably clean. In the case of trailers, semitrailers, or motorcycles, one plate shall be used and it shall be fastened to the rear thereof at a location provided by the manufacturer or in the absence of such a location at the rear thereof, and in the case of motorcycles in conformance with section 291-31.”

SECTION 2. Section 291-25, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) From thirty minutes after sunset until thirty minutes before sunrise, every motor vehicle moving upon any public highway shall carry at the front thereof at least two lighted head lamps which shall display white lights of equal candle power. The head lamps shall be securely mounted, not less than [~~twenty-four~~] twenty-two inches nor more than fifty-four inches above the road surface when measured to the head lamp center, on a rigid part of the vehicle designed specifically for head lamp installation by the manufacturer, and so arranged, adjusted, and constructed that, when the motor vehicle is fully loaded, any pair of headlights under the conditions of use shall produce a light sufficient to reveal any person, vehicle, or substantial object on the highway straight ahead of the motor vehicle for a distance of two hundred feet.

The light when measured at a distance of one hundred feet directly in front of the motor vehicle, and at a height of sixty inches above the level surface on which the motor vehicle stands, shall not exceed two thousand four hundred apparent candle power, nor shall this candle power be exceeded at a greater height than sixty inches.

When measured at a distance of one hundred feet ahead of the motor vehicle and seven feet or more to the left of the axis of the same, and at a height of sixty inches above the level surface on which the motor vehicle stands, the light shall not exceed eight hundred apparent candle power.”

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

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

(Approved April 9, 2007.)

## ACT 8

H.B. NO. 657

A Bill for an Act Relating to Waiver of Abandoned Vehicle Public Auction Requirements.

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

SECTION 1. Section 290-5, Hawaii Revised Statutes, is amended to read as follows:

**“§290-5 Waiver of public auction requirements.** The requirements of public auction may be waived when the value of any vehicle is less than \$1,000 as determined by the director of finance or authorized representative~~[-.]~~ or the vehicle is:

- (1) Missing major components or so materially damaged as to render the vehicle inoperable; and
- (2) The registration period has expired for the vehicle.

In that event, the vehicle, after public advertisement has been made pursuant to section 1-28.5, may be disposed of in the same manner as when a vehicle is put up for public auction and for which no bid is received.”

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

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

(Approved April 9, 2007.)

## ACT 9

H.B. NO. 1108

A Bill for an Act Relating to Statutory Revision: Amending 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 6E-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) It shall be a civil and administrative violation for any person to take, appropriate, excavate, injure, destroy, or alter any historic property or aviation artifact located upon the private lands of any owner thereof without the owner’s written permission being first obtained. It shall be a civil and administrative violation for any person to take, appropriate, excavate, injure, destroy, or alter any historic property or aviation artifact located upon lands owned or ~~[[~~controlled by the State or any of its political subdivisions,~~]]~~ except as permitted by the department, or to knowingly violate the conditions set forth in an approved mitigation plan that includes monitoring and preservation plans.”

SECTION 2. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

**“§36-27 Transfers from special funds for central service expenses.** Except as provided in this section, and notwithstanding any other law to the

## ACT 9

contrary, from time to time, 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:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;
- (11) Unemployment compensation fund established under section 383-121;
- (12) Hawaii hurricane relief fund established under chapter 431P;
- (13) Hawaii health systems corporation special funds;
- (14) Tourism special fund established under section 201B-11;
- (15) Universal service fund established under chapter 269;
- ~~[(16) Integrated tax information management systems special fund under section 231-3.2;~~
- ~~[(17)] (16) Emergency and budget reserve fund under section 328L-3;~~
- ~~[(18)] (17) Public schools special fees and charges fund under section 302A-1130(f);~~
- ~~[(19)] (18) Sport fish special fund under section 187A-9.5;~~
- ~~[(20)] (19) Neurotrauma special fund under section 321H-4;~~
- ~~[(21)] (20) Deposit beverage container deposit special fund under section 342G-104;~~
- ~~[(22)] (21) Glass advance disposal fee special fund established by section 342G-82;~~
- ~~[(23)] (22) Center for nursing special fund under section [H]304A-2163[H];~~
- ~~[(24)] (23) Passenger facility charge special fund established by section 261-5.5;~~
- ~~[(25)] (24) Solicitation of funds for charitable purposes special fund established by section 467B-15;~~
- ~~[(26)] (25) Land conservation fund established by section 173A-5;~~
- ~~[(27)] (26) Court interpreting services revolving fund under section 607-1.5;~~
- ~~[(28)] (27) Trauma system special fund under section 321-22.5;~~
- ~~[(29)] (28) Hawaii cancer research special fund;~~
- ~~[(30)] (29) Community health centers special fund; and~~
- ~~[(31)] (30) Emergency medical services special fund[H];~~

shall deduct five per cent of all receipts of all other special 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. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.[H]”

SECTION 3. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each special fund, except the:

- (1) Transportation use special fund established by section 261D-1;
- (2) Special out-of-school time instructional program fund under section 302A-1310;
- (3) School cafeteria special funds of the department of education;
- (4) Special funds of the University of Hawaii;
- (5) State educational facilities improvement special fund;
- (6) Special funds established by section 206E-6;
- (7) Aloha Tower fund created by section 206J-17;
- (8) Funds of the employees’ retirement system created by section 88-109;
- (9) Unemployment compensation fund established under section 383-121;
- (10) Hawaii hurricane relief fund established under chapter 431P;
- (11) Convention center enterprise special fund established under section 201B-8;
- (12) Hawaii health systems corporation special funds;
- (13) Tourism special fund established under section 201B-11;
- (14) Universal service fund established under chapter 269;
- ~~[(15) Integrated tax information management systems special fund under section 231-3.2;~~
- (15) Emergency and budget reserve fund under section 328L-3;
- ~~[(17)]~~ (16) Public schools special fees and charges fund under section 302A-1130(f);
- ~~[(18)]~~ (17) Sport fish special fund under section 187A-9.5;
- ~~[(19)]~~ (18) Neurotrauma special fund under section 321H-4;
- ~~[(20)]~~ (19) Center for nursing special fund under section ~~[[]304A-2163[[]]~~;
- ~~[(21)]~~ (20) Passenger facility charge special fund established by section 261-5.5;
- ~~[(22)]~~ (21) Court interpreting services revolving fund under section 607-1.5;
- ~~[(23)]~~ (22) Trauma system special fund under section 321-22.5;
- ~~[(24)]~~ (23) Hawaii cancer research special fund;
- ~~[(25)]~~ (24) Community health centers special fund; and
- ~~[(26)]~~ (25) Emergency medical services 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.[.]”

SECTION 4. Section 84-17, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The following persons shall file annually with the state ethics commission a disclosure of financial interests:

- (1) The governor, the lieutenant governor, the members of the legislature, and delegates to the constitutional convention; provided that delegates to the constitutional convention shall only be required to file initial disclosures;
- (2) The directors and their deputies, the division chiefs, the executive directors and the executive secretaries and their deputies, the purchasing agents and the fiscal officers, regardless of the titles by which the foregoing persons are designated, of every state agency and department;
- (3) The permanent employees of the legislature and its service agencies, other than persons employed in clerical, secretarial, or similar positions;

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- (4) The administrative director of the State, and the assistants in the office of the governor and the lieutenant governor, other than persons employed in clerical, secretarial, or similar positions;
- (5) The hearings officers of every state agency and department;
- (6) The president, the vice presidents, assistant vice presidents, the chancellors, and the provosts of the University of Hawaii and its community colleges;
- (7) The superintendent, the deputy superintendent, the assistant superintendents, the complex area superintendents, the state librarian, and the deputy state librarian of the department of education;
- (8) The administrative director and the deputy director of the courts;
- (9) The members of every state board or commission whose original terms of office are for periods exceeding one year and whose functions are not solely advisory; [~~provided that the governor's special advisory council for technology development established pursuant to section 27-42 not otherwise subject to this subsection shall be exempt from this subsection;~~]
- (10) Candidates for state elective offices, including candidates for election to the constitutional convention, provided that candidates shall only be required to file initial disclosures; and
- (11) The administrator and assistant administrator of the office of Hawaiian affairs."

SECTION 5. Section 132D-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(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 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 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 aerial devices, [{}display{}] fireworks, or articles pyrotechnic to be used, and the number of spectators expected."

SECTION 6. Section 134-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(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 no place of business, the person’s residence or, if there is neither place of business nor residence, the person’s place of sojourn, a permit to acquire the ownership of a firearm as prescribed in this section. When title to any firearm is acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of a firearm; provided that upon presentation of a copy of the death certificate of the owner making the bequest, any heir or legatee may transfer the inherited or bequested firearm directly to a dealer licensed under section 134-31 or licensed by the United States Department of [~~the Treasury~~] Justice without complying with the requirements of this section.”

2. By amending subsection (e) to read:

“(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 Justice, 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 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. 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 shall 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. The issuing authority shall perform an inquiry on an applicant who is a citizen of the United States by using the National Instant Criminal Background Check System before any determination to issue a permit or to deny an application is made. If the applicant is not a citizen of the United States and may be eligible to acquire a firearm under this chapter, the issuing authority shall perform an inquiry on the applicant, by using the National Instant Criminal Background Check System, to include a check of the Immigration and Customs Enforcement databases, [~~where the applicant is not a citizen of the United States;~~] before any determination to issue a permit or to deny an application is made.”

SECTION 7. Section 134-3, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) Dealers licensed under section 134-31 or dealers licensed by the United States Department of [~~the Treasury~~] Justice shall register firearms pursuant to this section on registration forms prescribed by the attorney general and shall not be

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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~~ Justice pursuant to Title 27, Code of Federal Regulations.”

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-one years or more or to a duly accredited official representative of a foreign nation of the age of 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-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. The chief of police of the appropriate county, or the chief’s designated representative, shall perform an inquiry on an applicant by using the National Instant Criminal Background Check System, to include a check of the Immigration and Customs Enforcement databases[;] where the applicant is not a citizen of the United States, before any determination to grant a license is made. Unless renewed, the license shall expire one year from the date of issue.”

SECTION 9. Section 195F-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a special fund within the state treasury known as the forest stewardship fund which shall be used as follows:

- (1) Payments shall be made by the board pursuant to agreements entered into with qualified landowners to further the purposes of this chapter;
- (2) Moneys collected from:
  - (A) The harvest of non-native forest products from forest reserves;
  - (B) The harvest of native forest products from degraded forests as defined in section 186-5.5, within forest reserves;
  - (C) The sale of forest products found dead and lying on the ground;
  - (D) The sale of tree seedlings from state nurseries;
  - (E) The sale of any other products or services, or anything of value derived from forest reserves not described above; or
  - (F) The imposition of fines or penalties for violations of this chapter and chapters 183 and 185 ~~[and 195F]~~ or any rule adopted thereunder;

shall be used for: (i) ~~[Replanting,]~~ replanting, managing, and maintaining designated timber management areas; (ii) ~~[Enhancing]~~ enhancing the management of public forest reserves with an emphasis on restoring

- degraded koa forests; and (iii) ~~[Developing]~~ developing environmental education and training programs pertaining to sustainable forestry; provided that the activities described in clauses (ii) and (iii) may not be funded unless the activities described in approved management plans pertaining to clause (i) are adequately funded; and
- (3) Moneys deposited into the fund as authorized by section 247-7 may also be used by the department to administer the program and manage the forest reserve system.”

SECTION 10. Section 211G-13, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) In carrying out the mission of the corporation, as authorized in this chapter, neither the corporation nor its officers, board members, or employees shall be considered to be broker-dealers, agents, investment advisors, or investment adviser representatives under chapter ~~[485.]~~ 485A. The tax credits issued or transferred pursuant to this chapter shall not be considered securities under chapter ~~[485.]~~ 485A.”

SECTION 11. Section 235-51, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) There is hereby imposed on the taxable income of every head of a household a tax determined in accordance with the following table:

In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
Not over \$3,000	1.40% of taxable income
Over \$3,000 but not over \$6,000	\$42.00 plus 3.20% of excess over \$3,000
Over \$6,000 but not over \$12,000	\$138.00 plus 5.50% of excess over \$6,000
Over \$12,000 but not over \$18,000	\$468.00 plus 6.40% of excess over \$12,000
Over <del>[\$21,600]</del> <u>\$18,000</u> but not over \$24,000	\$852.00 plus 6.80% of excess over \$18,000
Over \$24,000 but not over \$30,000	\$1,260.00 plus 7.20% of excess over \$24,000
Over \$30,000 but not over \$45,000	\$1,692.00 plus 7.60% of excess over \$30,000
Over \$45,000 but not over \$60,000	\$2,832.00 plus 7.90% of excess over \$45,000
Over \$60,000	\$4,017.00 plus 8.25% of excess over \$60,000.

In the case of any taxable year beginning after December 31, 2006:

If the taxable income is:	The tax shall be:
Not over \$3,600	1.40% of taxable income
Over \$3,600 but not over \$7,200	\$50.00 plus 3.20% of excess over \$3,600
Over \$7,200 but not over \$14,400	\$166.00 plus 5.50% of excess over \$7,200
Over \$14,400 but not over \$21,600	\$562.00 plus 6.40% of excess over \$14,400
Over \$21,600 but not over \$28,800	\$1,022.00 plus 6.80% of excess over \$21,600

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Over \$28,800 but not over \$36,000	\$1,512.00 plus 7.20% of excess over [ <del>\$28,000</del> ] <u>\$28,800</u>
Over \$36,000 but not over \$54,000	\$2,030.00 plus 7.60% of excess over \$36,000
Over \$54,000 but not over \$72,000	\$3,398.00 plus 7.90% of excess over \$54,000
Over \$72,000	\$4,820.00 plus 8.25% of excess over \$72,000.”

SECTION 12. Section 235-110.7, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) There shall be allowed to each taxpayer subject to the tax imposed by this chapter a capital goods excise tax credit which shall be deductible from the taxpayer’s net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

The amount of the tax credit shall be determined by the application of the following rates against the cost of the eligible depreciable tangible personal property used by the taxpayer in a trade or business and placed in service within Hawaii after December 31, 1987. For calendar years beginning after: December 31, 1987, the applicable rate shall be three per cent; December 31, 1988, and thereafter, the applicable rate shall be four per cent [~~except that for the period January 1, 1993, through December 31, 2002, and for eligible depreciable tangible personal property used in a trade or business that is purchased in a county in which the county general excise and use tax surcharge is in effect and placed in service in any county the applicable rate shall be four and one-half per cent].~~ For taxpayers with fiscal taxable years, the applicable rate shall be the rate for the calendar year in which the eligible depreciable tangible personal property used in the trade or business is placed in service within Hawaii.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for eligible depreciable tangible personal property which is placed in service by the entity. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined by rules.

In the case of eligible depreciable tangible personal property for which a credit for sales or use taxes paid to another state is allowable under section 238-3(i), the amount of the tax credit allowed under this section shall not exceed the amount of use tax [~~and for the period January 1, 1993, through December 31, 2002, the amount of the county general excise and use tax surcharge,~~] actually paid under chapter 238 relating to such tangible personal property.

If a deduction is taken under section 179 (with respect to election to expense certain depreciable business assets) of the Internal Revenue Code of 1954, as amended, no tax credit shall be allowed for that portion of the cost of property for which the deduction was taken.

(b) [~~If the tax credit is claimed by a taxpayer at the rate of four and one-half per cent, and the tangible personal property is purchased in a county in which the county general excise and use tax surcharge is not in effect, there shall be added to and become part of the tax liability of the taxpayer:~~

- (1) ~~The amount of the tax credit claimed under this section multiplied by three; or~~
- (2) ~~Ten per cent of the income tax liability for the taxable year for which the income tax return is being filed,~~

~~whichever is greater.]~~

If the capital goods excise tax credit allowed under subsection (a) exceeds the taxpayer's net income tax liability, the excess of credit over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credit allowed by this section shall be made for amounts less than \$1.

All claims for tax credits under this section, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit."

2. By amending subsection (e) to read:

"(e) As used in this section, the definition of section 38 property (with respect to investment in depreciable tangible personal property) as defined by section 48(a)(1)(A), (a)(1)(B), (a)(3), (a)(4), (a)(7), (a)(8), (a)(10)(A), (b), (c), (f), (l), (m), and (s) of the Internal Revenue Code of 1954, as amended as of December 31, 1984, is operative for the purposes of this section only.

As used in this section:

"Cost" means (1) the actual invoice price of the tangible personal property, or (2) the basis from which depreciation is taken under section 167 (with respect to depreciation) or from which a deduction may be taken under section 168 (with respect to accelerated cost recovery system) of the Internal Revenue Code of 1954, as amended, whichever is less.

"Eligible depreciable tangible personal property" is section 38 property as defined by the operative provisions of section 48 and having a depreciable life under section 167 or for which a deduction may be taken under section 168 of the federal Internal Revenue Code of 1954, as amended.

"Placed in service" means the earliest of the following taxable years:

- (1) The taxable year in which, under the:
  - (A) Taxpayer's depreciation practice, the period for depreciation; or
  - (B) Accelerated cost recovery system, a claim for recovery allowances; with respect to such property begins; or
- (2) The taxable year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

"Purchase" means an acquisition of property.

"Tangible personal property" means tangible personal property which is placed in service within Hawaii after December 31, 1987, and the purchase or importation of which resulted in a transaction which was subject to the imposition and payment of tax at the rate of four per cent[~~, except that for the period January 1, 1993, through December 31, 2002, and if the county general excise and use tax surcharge is in effect the tax rate shall be four and one-half per cent,~~] under chapter 237 or 238. "Tangible personal property" does not include tangible personal property which is an integral part of a building or structure or tangible personal property used in a foreign trade zone, as defined under chapter 212."

SECTION 13. Section 367D-8, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§367D-8]]~~ **Annual report.** The department of public safety and the office of youth services shall submit an annual report to the legislature no later than twenty days before the convening of each regular session on the following areas: program descriptions, type and costs of contracts made, name of the private agency awarded each contract, and the success of each contract in meeting program specifications. The report shall detail the development of the comprehensive continuum of care to address the gender-responsive needs of Hawaii's female offenders and female adjudicated youth both in-state and abroad. The report shall also

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highlight the existing gaps in the system and include recommendations for resources needed to reach a seamless continuum of care and other relevant information concerning the creation of a gender-responsive environment for female offenders and female adjudicated youth. [~~The first report shall be submitted no later than twenty days before the convening of the regular session of 2006.~~]

SECTION 14. Section 412:3-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The application shall contain the following information, unless waived by the commissioner:

- (1) The proposed name of the financial institution;
- (2) The specific location of its principal office, branches, agencies, and support facilities, and any lease agreements for such principal office, branches, agencies, and support facilities;
- (3) Financial statements, employment history, education, management experience, and other biographical information for all applicants, organizers, proposed executive officers, and directors of the financial institution;
- (4) The name and address of each proposed subscriber of capital stock in the financial institution;
- (5) The proposed capital plan, if capital has not been fully raised, that shall include:
  - (A) A description of any stock options, debentures, and stock warrants offered or proposed to be offered to any person; and
  - (B) Any stock option plan;
- (6) The proposed capital stock solicitation plan, if subscriptions for capital stock will be solicited, that shall include:
  - (A) Information regarding the solicitation plan by which the applicant and the proposed financial institution propose to conduct the solicitation of subscribers;
  - (B) Information regarding the classes of shares, respective quantities of shares for each class, and the subscription price of each class of stock;
  - (C) A specimen subscription contract or purchase agreement and other related documents to be executed by subscribers;
  - (D) Any underwriting agreement or other agreement for the purchase or distribution of the capital stock;
  - (E) Any escrow agreements or other agreement for the holding of the purchase proceeds of the capital stock;
  - (F) Proposed advertising materials;
  - (G) If the offer and sale of the capital stock is subject to the Securities Act of 1933 and regulations thereunder, a copy of the registration statement most recently filed with the federal Securities and Exchange Commission or any other notices or other filings in lieu of registration required or permitted by that Act or regulation and any subsequent amendments thereto;
  - (H) If the offer and sale of the capital stock is subject to chapter [485,] 485A, a copy of the registration or qualification statement most recently filed with the commissioner of securities and any subsequent amendments thereto; and
  - (I) If the offer and sale of the capital stock is not subject to the Securities Act of 1933 or chapter [485,] 485A, whether exempted by law or regulation or otherwise, a copy of the most recent

version of any prospectus, offering memorandum, offering circular, or other offering document proposed to be delivered to prospective subscribers to the capital stock, and any subsequent amendments thereto;

- (7) The financial institution's proposed policies concerning loans and concentrations of credit, asset and liability management, conflicts of interest, investments, community reinvestment, bank secrecy, anti-money laundering, and customer identification;
- (8) The financial institution's business plan for the first three years of operations;
- (9) Financial projections regarding the financial institution's profitability for the first three years of operations;
- (10) A market study or letters of support evidencing the need and advisability of granting authority to organize a financial institution;
- (11) Except for trust companies, evidence that the financial institution has applied for federal deposit insurance from the Federal Deposit Insurance Corporation or other appropriate federal deposit insurer;
- (12) Evidence that the financial institution has applied for fidelity bonds and other insurance appropriate to its size and operations, including the types and the amounts of coverage, and the respective deductible amounts, from insurance companies licensed in the United States;
- (13) Evidence that the proposed directors and executive officers of the financial institution have the financial ability, responsibility, and experience to engage in the business of a financial institution;
- (14) The employment agreements for all proposed executive officers of the financial institution;
- (15) The proposed articles of incorporation and bylaws of the financial institution;
- (16) A description of any existing or proposed service corporation, affiliate, or subsidiary; and
- (17) Any other information that the commissioner may require.''

SECTION 15. Section 412:3-202, Hawaii Revised Statutes, is amended to read as follows:

**“§412:3-202 Additional requirements for holding company.** An applicant for the organization of a Hawaii financial institution that will be a subsidiary of a holding company shall furnish the commissioner with the following additional information regarding the holding company, unless waived by the commissioner:

- (1) If the holding company is a corporation, a certificate from the incorporating jurisdiction indicating that the corporation was properly organized under applicable corporate law, and that it is otherwise in good standing;
- (2) Its existing and proposed affiliates and subsidiaries, and the extent and nature of its control over the operations of the proposed financial institution;
- (3) Financial statements, employment history, education, management experience, and other biographical information for all of its executive officers and directors;
- (4) The name and address of each shareholder or each proposed subscriber of capital stock;
- (5) The proposed capital plan, if capital has not been fully raised, that shall include:

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- (A) A description of any stock options, debentures, and stock warrants offered or proposed to be offered to any person; and
- (B) Any stock option plan;
- (6) The proposed capital stock solicitation plan, if subscriptions for capital stock will be solicited, that shall include:
  - (A) Information regarding the solicitation plan by which the applicant and the proposed holding company propose to conduct the solicitation of subscribers;
  - (B) Information regarding the classes of shares, respective quantities of shares for each class, and the subscription price of each class of stock;
  - (C) A specimen subscription contract or purchase agreement and other related documents to be executed by subscribers;
  - (D) Any underwriting agreement or other agreement for the purchase or distribution of the capital stock;
  - (E) Any escrow agreements or other agreement for the holding of the purchase proceeds of the capital stock;
  - (F) Proposed advertising materials;
  - (G) If the offer and sale of the capital stock is subject to the Securities Act of 1933 and regulations thereunder, a copy of the registration statement most recently filed with the federal Securities and Exchange Commission or any other notices or other filings in lieu of registration required or permitted by that Act or regulation and any subsequent amendments thereto;
  - (H) If the offer and sale of the capital stock is subject to chapter [485,] 485A, a copy of the registration or qualification statement most recently filed with the commissioner of securities and any subsequent amendments thereto; and
  - (I) If the offer and sale of the capital stock is not subject to the Securities Act of 1933 or chapter [485,] 485A, whether exempted by law or regulation or otherwise, a copy of the most recent version of any prospectus, offering memorandum, offering circular, or other offering document proposed to be delivered to prospective subscribers to the capital stock, and any subsequent amendments thereto;
- (7) The articles of incorporation and bylaws of the holding company;
- (8) Evidence that it has or will have the financial ability, responsibility, and experience to engage in the business of a financial institution holding company;
- (9) The employment agreements for all executive officers of the holding company; and
- (10) Any other information that the commissioner may require.”

SECTION 16. Section 412:3-206, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The applicant and the proposed Hawaii financial institution shall not solicit subscriptions for the capital stock of the Hawaii financial institution until the written decision and order granting the application for preliminary approval to organize has been issued and the articles of incorporation have been accepted for filing by the director of commerce and consumer affairs. The approval shall not constitute a determination that the applicant has complied with chapter [485] 485A or any other state or federal law.”

SECTION 17. Section 417E-1, Hawaii Revised Statutes, is amended by amending the definition of “broker-dealer” to read as follows:

““Broker-dealer” means a [~~“dealer”~~] “broker-dealer” as defined in section [~~485-1.~~] 485A-102.”

SECTION 18. Section 706-606.2, Hawaii Revised Statutes, is amended to read as follows:

**“[~~§706-606.2~~] Special sentencing considerations for arson; other actions not prohibited.** (1) In addition to any other penalty imposed, a person convicted of arson involving fire set to brush, grass, vegetation on the land resulting in damage to [~~40,000~~] ten thousand square feet of property, may be required to:

- (a) Pay any costs associated with extinguishing the fire; and
- (b) Perform community service work in the region in which the property damage occurred.

With regard to any [~~fine~~] or monetary penalty that may be imposed on a minor convicted or adjudicated for an offense of arson, the parents or legal guardians of the minor shall be liable for the percentage of costs associated with extinguishing the fire based upon the apportionment of fire damage to real or personal property caused by the minor as a result of committing the offense of arson, regardless of whether the property is publicly or privately owned.

- (2) Nothing in this section shall prohibit a separate criminal action being brought by the State or a civil action being brought by the State or a third party for conduct that constitutes an offense of arson.”

SECTION 19. Section 707-711, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of assault in the second degree if:

- (a) The person intentionally or knowingly causes substantial bodily injury to another;
- (b) The person recklessly causes serious or substantial bodily injury to another person;
- (c) The person intentionally or knowingly causes bodily injury to a correctional worker, as defined in section 710-1031(2), who is engaged in the performance of duty or who is within a correctional facility;
- (d) The person intentionally or knowingly causes bodily injury to another person with a dangerous instrument; or
- (e) The person intentionally or knowingly causes bodily injury to an educational worker who is engaged in the performance of duty or who is within an educational facility. For the purposes of this paragraph, “educational worker” means: any administrator, specialist, counselor, teacher, or employee of the department of education [~~or~~] an employee of a charter school; a person who is a volunteer in a school program, activity, or function that is established, sanctioned, or approved by the department of education; or a person hired by the department of education on a contractual basis and engaged in carrying out an educational function.”

SECTION 20. Section 27-42, Hawaii Revised Statutes, is repealed.

SECTION 21. Section 231-3.2, Hawaii Revised Statutes, is repealed.

SECTION 22. Section 231-8.6, Hawaii Revised Statutes, is repealed.

## ACT 10

SECTION 23. Section 235-110.4, Hawaii Revised Statutes, is repealed.

SECTION 24. Section 235-110.45, Hawaii Revised Statutes, is repealed.

SECTION 25. Section 235-110.92, Hawaii Revised Statutes, is repealed.

SECTION 26. Section 237-29.65, Hawaii Revised Statutes, is repealed.

SECTION 27. Section 237-29.75, Hawaii Revised Statutes, is repealed.

SECTION 28. Section 239-13, Hawaii Revised Statutes, is repealed.

SECTION 29. Act 184, Session Laws of Hawaii 2006, is amended by amending the prefatory language in section 3 to read as follows:

“SECTION 3. Section 414-64, Hawaii Revised Statutes, is amended by amending subsections (b) and [(d)] (c) to read as follows:”

SECTION 30. This Act shall be amended to conform to all other acts passed by the legislature during this regular session of 2007, whether enacted before or after the effective date of this Act, unless the other acts specifically provide otherwise.

SECTION 31. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 32. This Act shall take effect upon its approval; provided that:

- (1) Section 10 shall take effect July 1, 2008;
- (2) Section 11 shall take effect retroactive to May 19, 2006;
- (3) Sections 14, 15, 16, and 17 shall take effect July 1, 2008; and
- (4) Section 29 shall take effect retroactive to July 1, 2006.

(Approved April 9, 2007.)

## ACT 10

H.B. NO. 1138

A Bill for an Act Relating to Fire Protection.

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

SECTION 1. The purpose of this Act is to clarify the fire inspection responsibilities of the State and the various counties as they relate to state-owned airport facilities.

SECTION 2. Section 132-5, Hawaii Revised Statutes, is amended to read as follows:

“**§132-5 Right of entry for inspection; unlawful to obstruct.** The county fire chief or the chief’s designees [may], at all reasonable hours may enter any buildings, structures, or premises within the fire chief’s jurisdiction, except the interior of private dwellings, to make any inspection, investigation, or examination [which] that is authorized to be made under this chapter. The county fire chief or the chief’s designees may enter any private dwelling whenever the fire chief or the chief’s designees have reason to believe that dangerous conditions creating a fire

hazard exist in the dwelling. The county fire chief or the chief’s designees may enter any private dwelling when a fire has occurred in the dwelling. It shall be unlawful to obstruct, hinder, or delay any person having the right to make the inspection, investigation, or examination in the performance of duty.

The county fire chief or the chief’s designees shall make an inspection of all state-owned or county-owned buildings and facilities, except state-owned airport facilities, the frequency of which shall be made in accordance with section 132-6, and shall make a report to the authorities responsible for the maintenance of any state-owned or county-owned building or facility when it is found that a building or facility does not meet minimum standards of fire and safety protection.”

SECTION 3. Section 132-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each county fire chief [~~shall~~], in person or by officers or members of the fire chief’s fire department designated by the fire chief for that purpose, shall inspect all buildings, premises, and public thoroughfares, except the interiors of private dwellings[;] and state-owned airport facilities, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire[;] or any violation of any law, ordinance, rule, or order relating to fire hazard or to the prevention of fires.”

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

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

(Approved April 9, 2007.)

ACT 11

H.B. NO. 1158

A Bill for an Act Relating to Arson.

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

SECTION 1. Section 706-606.2, Hawaii Revised Statutes, is amended to read as follows:

“~~[§706-606.2]~~ **Special sentencing considerations for arson; other actions not prohibited.** In addition to any other penalty imposed, a person convicted of arson involving fire set to brush, grass, vegetation on the land resulting in damage to ~~[10,000]~~ ten thousand square feet or more of property, may be required to:

- (a) Pay any costs associated with extinguishing the fire; and
- (b) Perform community service work in the region in which the property damage occurred.

With regard to any ~~[fine]~~ or monetary penalty that may be imposed on a minor convicted or adjudicated for an offense of arson, the parents or legal guardians of the minor shall be liable for the percentage of costs associated with extinguishing the fire based upon the apportionment of fire damage to real or personal property caused by the minor as a result of committing the offense of arson, regardless of whether the property is publicly or privately owned.

Nothing in this section shall prohibit a separate criminal action being brought by the State or a civil action being brought by the State or a third party for conduct that constitutes an offense of arson.”

## ACT 12

SECTION 2. Section 708-8254, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of arson in the fourth degree if the person intentionally ~~[or]~~, knowingly, or recklessly sets fire to, or causes to be burned property and thereby damages the property of another without the other’s consent.”

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 and stricken. New statutory material is underscored.

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

(Approved April 9, 2007.)

## ACT 12

H.B. NO. 613

A Bill for an Act Relating to Veterans.

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

SECTION 1. The legislature finds that the number of veterans in the district of west Hawaii is increasing every year. In order to provide fair and necessary representation for these veterans with respect to veterans’ services and to recognize the different needs of veterans in east and west Hawaii, representation on the state advisory board on veterans’ services needs to reflect this distinction.

The purpose of this Act is to require a member of the advisory board on veterans’ services to be from the district of west Hawaii.

SECTION 2. Section 363-3.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be a policy advisory board on veterans’ services~~[-]~~ within the office of veterans’ services. The board shall consist of ~~[seven]~~ nine members appointed by the governor as provided in section 26-34. Five members shall be veterans, and there shall be at least one member residing in each of the counties ~~[except Kalawao county.]~~ of Maui and Kauai. The county of Hawaii shall be represented by two members, one member shall reside in east Hawaii and one member shall reside in west Hawaii. Four members shall reside in the city and county of Honolulu. The director of health, the director of human services, the director of labor and industrial relations, and the adjutant general shall serve as ex-officio non-voting members. The director for the office of veterans’ services shall serve as an ex-officio voting member. The chairperson of the board shall be elected by the majority of the board. The members shall serve without compensation but shall be allowed their actual and necessary expenses incurred in the performance of their duties.”

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

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

(Approved April 9, 2007.)

## ACT 13

H.B. NO. 1204

A Bill for an Act Relating to Criminal Procedure.

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

SECTION 1. Section 803-6, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) The citation shall contain:

- (1) [Name] The name and current address of the offender;
- (2) [Social] The last four digits of the offender’s social security number;
- (3) [Description] A description of the offender;
- (4) [Nature] The nature of the offense;
- (5) [Time] The time and date[;] of the offense;
- (6) [Notice] A notice of time and date for court appearance;
- (7) [Signature] The signature and badge number of the officer [(badge)];
- (8) [Signature] The signature of the offender agreeing to court appearance;
- (9) [Remarks;] Any remarks; and
- (10) [Notice-you-are-hereby-directed] A notice directing the offender to appear at the time and place designated [above] to stand trial for the offense indicated[-A] and a notice that failure to obey [this] the citation may result in a fine or imprisonment, or both.

(d) Where a citation has been issued in lieu of the requirements of subsection (a) [above], the officer who issues the summons or citation may subscribe to the complaint [under oath];

- (1) Under oath administered by any police officer whose name has been submitted to the prosecuting officer and who has been designated by the chief of police to administer the oath[-]; or
- (2) By declaration in accordance with the rules of court.”

SECTION 2. Section 805-1, Hawaii Revised Statutes, is amended to read as follows:

“**§805-1 Complaint; form of warrant.** When a complaint is made to any prosecuting officer of the commission of any offense, the prosecuting officer shall examine the complainant, shall reduce the substance of the complaint to writing, and shall cause the [same] complaint to be subscribed by the complainant under oath, which the prosecuting officer is hereby authorized to administer[-], or the complaint shall be made by declaration in accordance with the rules of court. If the original complaint results from the issuance of a traffic summons or a citation in lieu of an arrest pursuant to section 803-6, by a police officer, the oath may be administered by any police officer whose name has been submitted to the prosecuting officer and who has been designated by the chief of police to administer the oath[-], or the complaint may be submitted by declaration in accordance with the rules of court. Upon presentation of the written complaint to the judge [within] in whose circuit the offense [is-alleged-to-have] allegedly has been committed, the judge shall issue a warrant, reciting the complaint and requiring the sheriff, or other officer to whom it is directed [(except as provided in section 805-3), forthwith], except as provided in

## ACT 14

section 805-3, to arrest the accused and to bring the accused before the judge to be dealt with according to law; and in the same warrant the judge may require the officer to summon such witnesses as are named [~~therein~~] in the warrant to appear and give evidence at the trial. The warrant may be in the form established by the usage and practice of the issuing court.”

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

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

(Approved April 9, 2007.)

## ACT 14

H.B. NO. 1393

A Bill for an Act Relating to the Uniform Information Practices Act (Modified).

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

SECTION 1. Section 92F-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any other provision in this chapter to the contrary notwithstanding, each agency shall make available for public inspection and duplication during regular business hours:

- (1) Rules of procedure, substantive rules of general applicability, statements of general policy, and interpretations of general applicability adopted by the agency;
- (2) Final opinions, including concurring and dissenting opinions, as well as orders made in the adjudication of cases, except to the extent protected by section 92F-13(1);
- (3) Government purchasing information, including all bid results, except to the extent prohibited by section 92F-13;
- (4) Pardons and commutations, as well as directory information concerning an individual’s presence at any correctional facility;
- (5) Land ownership, transfer, and lien records, including real property tax information and leases of state land;
- (6) Results of environmental tests;
- (7) Minutes of all agency meetings required by law to be public;
- (8) Name, address, and occupation of any person borrowing funds from a state or county loan program, and the amount, purpose, and current status of the loan;
- (9) Certified payroll records on public works contracts except [~~that~~] social security numbers [of individuals shall not be disclosed;] and home addresses;
- (10) Regarding contract hires and consultants employed by agencies:
  - (A) The contract itself, the amount of compensation;
  - (B) The duration of the contract; and
  - (C) The objectives of the contract, except [~~that~~] social security numbers [of individuals shall not be disclosed;] and home addresses;
- (11) Building permit information within the control of the agency;

- (12) Water service consumption data maintained by the boards of water supply;
- (13) Rosters of persons holding licenses or permits granted by an agency that may include name, business address, type of license held, and status of the license;
- (14) The name, compensation (but only the salary range for employees covered by or included in chapter 76, and sections 302A-602 to 302A-640, and 302A-701, or bargaining unit (8)), job title, business address, business telephone number, job description, education and training background, previous work experience, dates of first and last employment, position number, type of appointment, service computation date, occupational group or class code, bargaining unit code, employing agency name and code, department, division, branch, office, section, unit, and island of employment, of present or former officers or employees of the agency; provided that this paragraph shall not require the creation of a roster of employees; and provided further that this paragraph shall not apply to information regarding present or former employees involved in an undercover capacity in a law enforcement agency;
- (15) Information collected and maintained for the purpose of making information available to the general public; and
- (16) Information contained in or compiled from a transcript, minutes, report, or summary of a proceeding open to the public.”

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

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

(Approved April 9, 2007.)

## ACT 15

H.B. NO. 1756

A Bill for an Act Relating to County Concessions.

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

SECTION 1. Section 102-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as otherwise specifically provided by law, no concession or concession space shall be leased, let, licensed, rented out, or otherwise disposed of either by contract, lease, license, permit, or any other arrangement, except under contract let after public notice for sealed bids in the manner provided by law; provided that the duration of the grant of the concession or concession space shall be related to the investment required but in no event to exceed fifteen years[-]; provided further that and subject to approval by county council resolution, the fifteen-year limit shall not apply to nonprofit corporations organized pursuant to chapter 414D.”

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

**ACT 16**

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

(Approved April 13, 2007.)

**ACT 16**

H.B. NO. 1081

A Bill for an Act Relating to Public Works.

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

SECTION 1. Section 104-28, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [Action] The following civil actions may be instituted in any court of competent jurisdiction:

- (1) An 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 on behalf of oneself or themselves and others similarly situated[-]; and
- (2) An action for injunctive and other relief against an employer that fails to pay the prevailing wage to its employees as required by this chapter by a joint labor-management committee established pursuant to section 175a of the federal Labor Management Cooperation Act of 1978 (29 U.S.C. 175a).”

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

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

(Became law on April 13, 2007, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

**ACT 17**

H.B. NO. 1377

A Bill for an Act Making an Emergency Appropriation to the Hawaii Health Systems Corporation.

*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. The purpose of this Act is to increase the expenditure ceiling of the health systems special fund, established by section 323F-21, Hawaii Revised Statutes, to pay for operational costs that will exceed the current expenditure ceiling.

A ceiling increase of \$41,000,000 for the health systems special fund is required to pay for additional staff hired for the conversion of Kula, Hale Ho’ola Hamakua, and Samuel Mahelona Memorial Hospitals to critical access hospital status; for hospitalist programs at Hilo Medical Center, Maui Memorial Medical Center, and Kona Community Hospital; to operate the medical/surgical wing at Maui Memorial Medical Center; to staff imaging departments; to provide physicians

for specialty coverage; and to help cover the increasing costs of providing quality healthcare.

SECTION 3. There is appropriated out of the health systems special fund the sum of \$41,000,000, or so much thereof as may be necessary, for fiscal year 2006-2007 to carry out the purposes of this Act.

SECTION 4. The sum appropriated shall be expended by the Hawaii health systems corporation.

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

(Approved April 16, 2007.)

## ACT 18

S.B. NO. 1006

A Bill for an Act Relating to Mortgage Brokers and Solicitors.

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

SECTION 1. Section 454-2, Hawaii Revised Statutes, is amended to read as follows:

**“§454-2 Exemptions.** This chapter does not apply to the following:

- (1) Banks, operating subsidiaries of a bank established and operating under section 412:5-203, trust companies, [~~building and loan associations,~~] savings associations, pension trusts, credit unions, insurance companies, financial services loan companies, or federally licensed small business investment companies, authorized under any law of this State or of the United States to do business in the State;
- (2) A person making or acquiring a mortgage loan with one's own funds for one's own investment without intent to resell the mortgage loan;
- (3) A person licensed to practice law in the State, not actively and principally engaged in the business of negotiating loans secured by real property, when the person renders services in the course of the person's practice as an attorney;
- (4) A person licensed as a real estate broker or salesperson in the State, not actively engaged in the business of negotiating loans secured by real property, when the person renders services in the course of the person's practice as a real estate broker or salesperson;
- (5) An institutional investor negotiating, entering into, or performing under a loan purchase agreement for its portfolio, for subsequent resale to other institutional investors, or for placement of the mortgages into pools or packaging them into mortgage-backed securities. As used in this paragraph, "loan purchase agreement" means an agreement or arrangement under which a bank, savings and loan, credit union, financial services loan company, or other financial institution registered to do business in the State of Hawaii agrees to sell mortgage loans or obtain funding therefor, with or without the transfer of servicing rights, to an institutional investor;
- (6) Foreign lender as defined in section 207-11; and
- (7) A person licensed under chapter 467 as a real estate broker or salesperson selling time share interests on behalf of a time share plan

## ACT 19

developer that is licensed as a mortgage broker under this chapter; provided that:

- (A) The acts or conduct of a developer's authorized representative shall be deemed to be the acts or conduct of the developer for the purposes of section 454-4; and
- (B) If the person engages in acts or conduct prohibited under section 454-4(a), the acts or conduct shall constitute grounds for disciplinary action under section 467-14.'

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

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

(Approved April 16, 2007.)

## ACT 19

H.B. NO. 1400

A Bill for an Act Relating to Correctional Industries.

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

SECTION 1. Section 354D-4, Hawaii Revised Statutes, is amended to read as follows:

**“§354D-4 Powers and duties of the director.** Under the supervision of the director or the director's designee, the administrator of the correctional industries program shall:

- (1) Develop programs generating revenue that best sustains their operation and allows for capital investment, and reimburses the general fund, when possible, for the expense of correctional services;
- (2) Develop programs providing the maximum level of work and training opportunities for qualified, able-bodied inmates;
- (3) Develop programs assuming responsibility for training qualified, able-bodied inmates in general work and specific training skills that increase their employment prospects after release;
- (4) Develop programs in which inmates can learn skills used in the construction and other industries, while providing low-cost construction, renovation, and repairs of facilities, grounds, furniture, vehicles, and equipment for private, nonprofit social services, health, or education agencies and programs;
- (5) Acquire or purchase equipment, materials, supplies, office space, insurance, and services necessary to establish and maintain programs pursuant to this chapter;
- (6) Use labor services of qualified, able-bodied inmates in the manufacture or production of goods and services that are needed for the construction, operation, or maintenance of any office, department, institution, or agency supported in whole or in part by the State, the counties, or the federal government;
- (7) Sell all goods and services to the State, the counties, or the federal government;
- (8) Sell uniforms and uniform accessories to State-employed adult corrections officers;

- [(8)] (9) Purchase, lease, trade, exchange, acquire, and maintain personal property; and
- [(9)] (10) Accept grants or loans from the State, the counties, or the federal government.”

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

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

(Approved April 17, 2007.)

**ACT 20**

H.B. NO. 1278

A Bill for an Act Relating to Environmental Site Cleanup.

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

SECTION 1. The purpose of this Act is to repeal the sunset date of the Hawaii brownfields cleanup revolving loan fund, to enable the State to continue to offer low-cost loans to eligible borrowers for the cleanup of contaminated properties.

SECTION 2. Act 173, Session Laws of Hawaii 2002, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect on July 1, 2002[~~—and shall be repealed on June 30, 2007~~].”

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect on June 29, 2007.

(Approved April 17, 2007.)

**ACT 21**

S.B. NO. 923

A Bill for an Act Relating to Condominiums.

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

SECTION 1. Act 164, Session Laws of Hawaii 2004, as amended by Act 93, Session Laws of Hawaii 2005, as amended by Act 273, Session Laws of Hawaii 2006, is amended by amending section 35 to read as follows:

“SECTION 35. This Act shall take effect on July 1, 2006; provided that:  
[(1) The text of section ~~146~~ in part I of this Act shall be repealed on December 31, 2007, and reenacted in the form in which it read, as section 514A-90, Hawaii Revised Statutes, on the day before the approval of Act 39, Session Laws of Hawaii 2000, but with the amendments to section 514A-90, Hawaii Revised Statutes, made by Act 53, Session Laws of Hawaii 2003;

**ACT 22**

- (2)] (1) Section 28 of this Act shall take effect on July 1, 2004, and shall be repealed on June 30, 2006; and
- [(3)] (2) Sections 30 to 33 of this Act shall take effect on July 1, 2004.”

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

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

(Approved April 17, 2007.)

**ACT 22**

S.B. NO. 1697

A Bill for an Act Relating to the Definition of “Contractor” Under the Contractor Repair Act.

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

SECTION 1. The purpose of this Act is to clarify the original intent of Act 119, Session Laws of Hawaii 2004, the Contractor Repair Act, in chapter 672E, Hawaii Revised Statutes.

The legislature finds that the original intent of the Contractor Repair Act was not to include real estate brokers and salespersons engaged in the business of “selling a dwelling” in the definition of “contractor”. The legislature further finds that the intent of the Contractor Repair Act was to include “owner-builders” as described in chapter 444, Hawaii Revised Statutes, who design, manufacture, supply products for, develop or construct, and then sell or lease a dwelling (including “owner-builders” who sell or lease to their employees) in the definition of “contractor”.

SECTION 2. Section 672E-1, Hawaii Revised Statutes, is amended by amending the definition of “contractor” to read as follows:

““Contractor” means any person, firm, partnership, corporation, association, or other organization that is engaged in the business of designing, manufacturing, supplying products, developing, or constructing[~~-, or selling~~] a dwelling.”

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

SECTION 4. This Act shall take effect upon approval.

(Approved April 18, 2007.)

**ACT 23**

H.B. NO. 345

A Bill for an Act Relating to Holidays.

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

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

“§8- Peace day. September 21 of each year shall be known and recognized as “Peace Day” to promote peace programs, improve international relations, and increase educational awareness of peace; provided that this day is not and shall not be construed to be a state holiday. All citizens shall be encouraged to observe and celebrate the blessings of peace and endeavor to create peace on peace day.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved April 18, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 24**

H.B. NO. 421

A Bill for an Act Relating to Short Term Investment of County Moneys.

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

SECTION 1. Section 46-50, Hawaii Revised Statutes, is amended to read as follows:

“**§46-50 Short term investment of county moneys.** The director of finance of each county may, with the approval of the legislative body, invest county moneys [which] that are in excess of the amounts necessary for the meeting of immediate requirements when in the judgment of the legislative body the action will not impede or hamper the necessary financial operations of the county in:

- (1) Bonds or interest-bearing notes or obligations:
  - (A) Of the county;
  - (B) Of the State;
  - (C) Of the United States; or
  - (D) Of agencies of the United States[;] for which the full faith and credit of the United States are pledged for the payment of principal and interest;
- (2) Federal land bank bonds;
- (3) Joint stock farm loan bonds;
- (4) Federal Home Loan Bank notes and bonds;
- (5) Federal Home Loan Mortgage Corporation bonds;
- (6) Federal National Mortgage Association notes and bonds;
- (7) Securities of a mutual fund whose portfolio is limited to bonds or securities issued or guaranteed by the United States or an agency thereof;
- (8) Repurchase agreements fully collateralized by any such bonds or securities;
- (9) Bank savings accounts;
- (10) Time certificates of deposit;
- (11) Certificates of deposit open account;
- (12) Bonds of any improvement district of any county of the State;
- (13) Bank, savings and loan association, and financial services loan company repurchase agreements;
- (14) Student loan resource securities including:
  - (A) Student loan auction rate securities;

**ACT 25**

- (B) Student loan asset-backed notes;
- (C) Student loan program revenue notes and bonds; and
- (D) Securities issued pursuant to Rule 144A of the Securities Act of 1933, including any private placement issues;

issued with either bond insurance or overcollateralization guaranteed by the United States Department of Education; provided all insurers maintain a triple-A rating by Standard & Poor's, Moody's, Duff & Phelps, Fitch, or any other major national securities rating agency;

(15) Commercial paper with an A1/P1 or equivalent rating by any national securities rating service; and

(16) Bankers' acceptances with an A1/P1 or equivalent rating by any national securities rating service;

provided the investments are due to mature not more than five years from the date of investment. The income derived therefrom shall be deposited in the fund or funds that the legislative body shall direct[;]; provided that if any money invested under this section belongs to any waterworks fund, then any income derived therefrom shall be paid into and credited to the fund.”

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

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

(Approved April 18, 2007.)

**ACT 25**

H.B. NO. 1376

A Bill for an Act Relating to Petroleum-Contaminated Soil.

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

SECTION 1. Section 342H-4.5, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed and stricken.<sup>1</sup>

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

(Approved April 19, 2007.)

**Note**

- 1. Edited pursuant to HRS §23G-16.5.

**ACT 26**

H.B. NO. 1294

A Bill for an Act Relating to the Hawaii Employer-Union Health Benefits Trust Fund.

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

SECTION 1. Section 87A-33, Hawaii Revised Statutes, is amended to read as follows:

**“§87A-33 State and county contributions; retired employees.** (a) Notwithstanding any law to the contrary, this section shall apply to state and county contributions to the fund for:

- (1) The dependent-beneficiary of an employee who is killed in the performance of duty;
- (2) A dependent-beneficiary, upon the death of the employee-beneficiary, except as provided in section 87A-36;
- (3) An employee-beneficiary who retired after June 30, 1984, due to a disability falling within sections 88-79 and 88-285;
- (4) An employee-beneficiary who retired before July 1, 1984;
- (5) An employee-beneficiary who:
  - (A) Was hired before July 1, 1996;
  - (B) Retired after June 30, 1984; and
  - (C) Who has ten years or more of credited service, excluding sick leave;
- (6) An employee-beneficiary who:
  - (A) Was hired after June 30, 1996; and
  - (B) Retired with twenty-five or more years of credited service, excluding sick leave, except as provided in section 87A-36; and
- (7) Employees who retired prior to 1961 and their dependent-beneficiaries.

(b) Effective July 1, 2003, there is established a base monthly contribution for health benefit plans that the State, through the department of budget and finance, and the counties, through their respective departments of finance, shall pay to the fund, up to the following:

- (1) \$218 for each employee-beneficiary enrolled in supplemental medicare self plans;
- (2) \$671 for each employee-beneficiary enrolled in supplemental medicare family plans;
- (3) \$342 for each employee-beneficiary enrolled in non-medicare self plans; and
- (4) \$928 for each employee-beneficiary enrolled in non-medicare family plans.

The monthly contribution by the State or county shall not exceed the actual cost of the health benefits plan or plans. If both husband and wife are employee-beneficiaries, the total contribution by the State or county shall not exceed the monthly contribution for a supplemental medicare family or non-medicare family plan, as appropriate.

(c) Effective July 1, 2004, there is established a base monthly contribution for health benefit plans that the State, through the department of budget and finance, and the counties, through their respective departments of finance, shall pay to the fund, up to the following:

- (1) \$254 for each employee-beneficiary enrolled in supplemental medicare self plans;
- (2) \$787 for each employee-beneficiary enrolled in supplemental medicare family plans;
- (3) \$412 for each employee-beneficiary enrolled in non-medicare self plans; and
- (4) \$1,089 for each employee-beneficiary enrolled in non-medicare family plans.

The monthly contribution by the State or county shall not exceed the actual cost of the health benefit plan or plans and shall not be required to cover increased benefits above those initially contracted for by the fund for plan year 2004-2005. If both husband and wife are employee-beneficiaries, the total contribution by the State

## ACT 27

or county shall not exceed the monthly contribution for a supplemental medicare family or non-medicare family plan, as appropriate.

(d) The base composite monthly contribution shall be adjusted annually, beginning July 1, 2005. The adjusted base composite monthly contribution for each new plan year (July 1 until June 30) shall be calculated by increasing or decreasing the base composite monthly contribution in effect through the end of the previous plan year by the percentage increase or decrease in the medicare part B premium rate for those years, which percentage shall be calculated by dividing the medicare part B premium rate in effect at the beginning of the new plan year by the rate in effect at the beginning of the previous plan year.

For the plan year beginning July 1, 2005, the adjusted base monthly contribution shall be computed using the actual contracted premium rate as of July 1, 2004, for medicare and non-medicare, self and family health benefits<sup>1</sup> plans with the highest actual contracted premium rate as of July 1, 2004.

As used in this subsection, "medicare part B premium rate" means the rate published in the Federal Register each year on November 1 or on the business day closest to November 1 of each year after the medicare part B premium rate has been established by the Secretary of Health and Human Services and approved by the United States Congress.

(e) If the board adopts a rate structure that provides for other than self and family rates for the health benefit plans, the base monthly contribution for the rate structure adopted by the board shall be adjusted to provide the equivalent underwriting cost as the base monthly contribution that is provided for in this section."

SECTION 2. New statutory material is underscored.

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

(Approved April 19, 2007.)

### Note

1. Prior to amendment "benefit" appeared here.

## ACT 27

H.B. NO. 1157

A Bill for an Act Relating to Dangerous Drugs.

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

SECTION 1. Section 712-1242, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of promoting a dangerous drug in the second degree if the person knowingly:

- (a) Possesses twenty-five or more capsules, tablets, ampules, dosage units, or syrettes, containing one or more dangerous drugs; or
- (b) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:
  - (i) One-eighth ounce or more, containing methamphetamine, heroin, morphine, or cocaine or any of their respective salts, isomers, and salts of isomers; or
  - (ii) One-fourth ounce or more, containing any dangerous drug; or
- (c) Distributes any dangerous drug in any amount, except for methamphetamine [~~as provided in section 712-1240.6~~]."

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 and stricken.

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

(Approved April 20, 2007.)

**ACT 28**

H.B. NO. 1225

A Bill for an Act Relating to Salary Payments.

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

SECTION 1. Section 40-53, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All payments for permanent settlements, specific and all other salaries, ~~[excepting that of the comptroller and deputy comptroller,]~~ shall be drawn by the comptroller, payable to each individual to whom the State is directly indebted, except as provided for in section 40-58. No permanent settlements nor salary checks shall be paid by the director of finance until the person in whose favor the check is drawn shall have indorsed the person’s signature thereon. ~~[The salaries of the comptroller and deputy comptroller shall be paid by the director when due as in this chapter provided upon checks approved by the governor.]”~~

SECTION 2. Statutory material to be repealed is bracketed and stricken.

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

(Approved April 20, 2007.)

**ACT 29**

H.B. NO. 1287

A Bill for an Act Relating to Unclaimed Property.

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

SECTION 1. Section 523A-3.5, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed and stricken.<sup>1</sup>

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

(Approved April 20, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

ACT 30

H.B. NO. 1007

A Bill for an Act Relating to Family Self-Sufficiency.

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

SECTION 1. The legislature finds that the family self-sufficiency program allows public housing residents and holders of federal section 8 homeownership program rental vouchers to build savings in an escrow account to be used for the down payment on a home or other uses.

The purpose of this Act is to support homeownership by households receiving low-income housing assistance by exempting these family self-sufficiency escrow accounts from asset tests used to determine eligibility for public benefit programs administered by the department of human services.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§346- Family self-sufficiency escrow accounts; asset test exemption.** Moneys within an escrow account established under the family self-sufficiency program of the United States Department of Housing and Urban Development shall be disregarded when determining eligibility for assistance or other benefits under this chapter.”

SECTION 2<sup>1</sup>. New statutory material is underscored.<sup>2</sup>

SECTION 3<sup>1</sup>. This Act shall take effect upon its approval.

(Approved April 20, 2007.)

**Notes**

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

ACT 31

S.B. NO. 1968

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

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

SECTION 1. Section 121-39, Hawaii Revised Statutes, is amended to read as follows:

**“§121-39 Pay of officers and warrant officers while on active duty.** Officers and warrant officers of the army or air national guard while on active duty of the State shall receive the pay and allowances of officers and warrant officers of similar grades of the United States [~~army~~] Army and [~~air force,~~] Air Force, respectively; provided that [~~no~~]:

- (1) The State shall allow officers and warrant officers to directly deposit their pay by electronic means to their personal banking accounts; and;
- (2) No pay or allowances shall be made to officers or warrant officers for any service for which they receive military pay and allowances from the United States.”

SECTION 2. Section 121-40, Hawaii Revised Statutes, is amended to read as follows:

“**§121-40 Pay of enlisted personnel while on active duty.** Enlisted personnel of the army and air national guard while on active duty in the service of the State, except during periods of annual field training or year-round field training, shall receive the same pay and allowances as enlisted personnel of similar rank in the United States [~~army~~] Army and [~~air force,~~] Air Force respectively; provided that the [aggregate]:

- (1) State shall allow enlisted personnel to directly deposit their pay by electronic means to their personal banking accounts; and
- (2) Aggregate of the pay and allowances, computed on a daily basis, shall in no event be less than the amount equal to ten times the hourly wage specified in section 387-2.”

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

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

(Approved April 20, 2007.)

## ACT 32

S.B. NO. 1459

A Bill for an Act Making an Emergency Appropriation to the Department of Health for Early Intervention Services.

*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. Although funds were appropriated to the department of health for early intervention services for the period beginning July 1, 2006, and ending June 30, 2007, the department of health has a critical need for additional funds.

On May 31, 2005, the State of Hawaii was deemed in compliance with the Felix Consent Decree, marking the end of federal court oversight for services including early intervention services. The department of health must continue to carry out its federal and state obligations to provide early intervention services for children age zero to three years with a developmental delay or biological or environmental risk, as mandated by part C of the Individuals with Disabilities Education Improvement Act of 2004 (P.L. 108-446), sections 321-351 to 321-357, Hawaii Revised Statutes, and the Hawaii early intervention state plan.

The State is currently under “special conditions,” the first level of sanctions under the United States Department of Education, Office of Special Education Programs. The State is required to show improvement in providing comprehensive developmental evaluations in a timely manner, individual family support plans that meet federal requirements, and transition conferences that meet the federally required timelines to avoid moving to a higher level of sanctions, “compliance agreement.”

Due to an increased number of children referred for services, early intervention purchase-of-service programs are providing an increased number of multi-

## ACT 32

disciplinary comprehensive developmental evaluations of a child's cognitive, physical, communication, social or emotional, and adaptive development.

To serve more children, current programs have expanded and three new purchase-of-service programs were added in windward, central, and leeward Oahu. These programs serve additional children who previously received therapy services from fee-for-service providers and care coordination from early intervention section, early childhood services programs, public health nurses, or healthy start; and additional children under age three years who are confirmed victims of child abuse or neglect, as required by the Individuals with Disabilities Education Improvement Act of 2004 and the Child Abuse Prevention and Treatment Act of 1974 (P.L. 93-247), reauthorized as the Keeping Children and Families Safe Act of 2003 (P.L. 108-36).

The Individuals with Disabilities Education Improvement Act of 2004 also requires a family-centered but more costly approach of providing services in "natural environments" or community-based settings, such as at families' homes, community preschools, and parks, which increases travel time for service providers to reach the "natural environment," and necessitates a smaller caseload, increased number of providers, and increased costs per child.

As a result of early intervention purchase-of-service programs having increased costs to evaluate and serve additional children as required by the Individuals with Disabilities Education Improvement Act of 2004, existing funds will be expended before the end of this fiscal year.

The purpose of this Act is to appropriate additional general funds to address expenses related to early intervention services from the department of health for fiscal year 2006-2007.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,419,644, or so much thereof as may be necessary for fiscal year 2006-2007, to carry out the purposes of this Act.

SECTION 4. The sum appropriated shall be expended by the department of health.

SECTION 5. In accordance with article VII, section 9, of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 (established at \$5,357,987,705 on November 8, 2006) has already been exceeded by \$90,137,694, or 1.68 per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$4,419,644 or an additional 0.082 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

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

(Approved April 23, 2007.)

## ACT 33

S.B. NO. 1444

A Bill for an Act Relating to the Purpose of the Hawaii Youth Correctional Facility.

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

SECTION 1. Section 352-2.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter creates within the department of human services, and to be placed within the office of youth services under the supervision of the director and such other subordinates as the director shall designate, the Hawaii youth correctional facilities, ~~[in order]~~ to provide for the ~~[incarceration, punishment,]~~ custody, rehabilitation, and institutional care and services to ~~[reintegrate]~~ prepare for reentry into their communities and families, ~~[children]~~ youth committed by the courts of the State.”

SECTION 2. Section 571-48, Hawaii Revised Statutes, is amended to read as follows:

“**§571-48 Decree, if informal adjustment or diversion to a private or community agency or program has not been effected.** When a minor is found by the court to come within section 571-11, the court shall so decree and in its decree shall make a finding of the facts upon which the court exercises its jurisdiction over the minor. Upon the decree the court, by order duly entered, shall proceed as follows:

- (1) As to a child adjudicated under section 571-11(1):
  - (A) The court may place the child on probation:
    - (i) In the child’s own home; or
    - (ii) In the custody of a suitable person or facility elsewhere, upon conditions determined by the court.
 

When conditions of probation include ~~[incarceration]~~ custody in a youth correctional facility, the ~~[incarceration]~~ custody shall be for a term not to exceed one year, after which time the person shall be allowed to reside in the community subject to additional conditions as may be imposed by the court;
  - (B) The court may vest legal custody of the child, after prior consultation with the agency or institution, in a Hawaii youth correctional facility, in a local public agency or institution, or in any private institution or agency authorized by the court to care for children; or place the child in a private home. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state’s department of social services or other appropriate department; or
  - (C) The court may fine the child for a violation which would be theft in the third degree by shoplifting if committed by an adult. The court may require the child to perform public services in lieu of the fine;
- (2) As to a child adjudicated under section 571-11(2):
  - (A) The court may place the child under protective supervision, as hereinabove defined, in the child’s own home, or in the custody of a suitable person or agency elsewhere, upon conditions determined by the court; or

- (B) The court may vest legal custody of the child, after prior consultation with the agency or institution, in a local governmental agency or institution licensed or approved by the State to care for children, with the exception of an institution authorized by the court to care for children. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other appropriate department; provided that the child may not be committed to a public or private institution operated solely for the treatment of law violators;
- (3) An order vesting legal custody of a minor in an individual, agency, or institution under section 571-11(2) shall be for an indeterminate period but shall not remain in force or effect beyond three years from the date entered, except that the individual, institution, or agency may file with the court a petition for renewal of the order and the court may renew the order if it finds such renewal necessary to safeguard the welfare of the child or the public interest. The court, after notice to the parties, may conduct a hearing on the petition. Renewal may be periodic during minority, but no order shall have any force or effect beyond the period authorized by section 571-13. An agency granted legal custody shall be subject to prior approval of the court in any case in which the child is to reside without the territorial jurisdiction of the court and may be subject to prior approval in other cases. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court;
- (4) Whenever the court commits a child to the care of the director of human services or executive director of the office of youth services, or vests legal custody of a child in an institution or agency, it shall transmit with the order copies of the clinical reports, social study, and other information pertinent to the care and treatment of the child, and the institution or agency shall give to the court any information concerning the child that the court may at any time require. An institution or agency receiving a child under this paragraph shall inform the court whenever the status of the child is affected through temporary or permanent release, discharge, or transfer to other custody. An institution to which a child is committed under section 571-11(1) or (2) shall not transfer custody of the child to an institution for the correction of adult offenders, except as authorized in this chapter and under chapter 352;
- (5) The court may order, for any child within its jurisdiction, whatever care or treatment is authorized by law;
- (6) In placing a child under the guardianship or custody of an individual or of a private agency or private institution, the court shall give primary consideration to the welfare of the child;
- (7) In support of any order or decree under section 571-11(1) or (2), the court may require the parents or other persons having custody of the child, or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter and who are parties to the proceeding, to do or to omit doing any acts required or forbidden by law, when the judge deems this requirement necessary for the welfare of the child. The court may also make appropriate orders concerning the parents or other persons having custody of the child and who are parties to the proceeding. If such persons fail to comply with the

- requirement or with the court order, the court may proceed against them for contempt of court;
- (8) In support of any order or decree for custody or support, the court may make an order of protection setting forth reasonable conditions of behavior to be observed for a specified time, binding upon both parents or either of them. This order may require either parent to stay away from the home or from the other parent or children, may permit the other to visit the children at stated periods, or may require a parent to abstain from offensive conduct against the children or each other;
  - (9) The court may dismiss the petition or otherwise terminate its jurisdiction at any time;
  - (10) In any other case of which the court has jurisdiction, the court may make any order or judgment authorized by law;
  - (11) The court may order any person adjudicated pursuant to section 571-11(1) to make restitution of money or services to any victim who suffers loss as a result of the child's action, or to render community service;
  - (12) The court may order any person adjudicated pursuant to section 571-11(2) to participate in community service; and
  - (13) The court may order the parents of an adjudicated minor to make restitution of money or services to any victim, person, or party who has incurred a loss or damages as a result of the child's action."

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

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

(Approved April 23, 2007.)

## ACT 34

S.B. NO. 1092

A Bill for an Act Relating to Education.

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

SECTION 1. Act 246, Session Laws of Hawaii 2006, is amended by amending section 6 to read as follows:

"SECTION 6. There is appropriated out of the state educational facilities special fund the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2006-2007 for the repair and maintenance of department of education school facilities.

The appropriation made by this section shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all moneys from the appropriation unencumbered as of June 30, 2008, shall lapse as of that date.

The sum appropriated shall be expended by the department of education for the purposes of this section."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on June 30, 2007.

(Approved April 23, 2007.)

A Bill for an Act Relating to Minors.

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

SECTION 1. The purpose of this Act is to allow a minor who is not under the care, supervision, or control of a parent, custodian, or legal guardian, to consent to the provision of primary medical care and services.

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

**“CHAPTER  
PRIMARY MEDICAL CARE FOR MINORS WITHOUT SUPPORT**

§ -1 **Definitions.** For the purposes of this chapter, the following terms shall be defined as follows:

“Licensed health care practitioner” includes dentists licensed under chapter 448, physicians licensed under chapter 453, physician assistants licensed under chapter 453, and advanced practice registered nurses licensed under chapter 457.

“Minor without support” means a person who is at least fourteen years of age but less than eighteen years of age who is not under the care, supervision, or control of a parent, custodian, or legal guardian.

“Primary medical care and services” means health services that include screening, counseling, immunizations, medication, and treatment of illnesses and medical conditions customarily provided by licensed health care practitioners in an outpatient setting. As used in this chapter, “primary medical care and services” does not include invasive care, such as surgery, that goes beyond standard injections, laceration care, or treatment of simple abscesses.

§ -2 **Consent to primary medical care and services.** (a) A licensed health care practitioner may provide primary medical care and services to a minor who consents to the primary medical care and services if the physician reasonably believes that:

(1) The minor understands the significant benefits and risks of the proposed primary medical care and services and can communicate an informed consent;

(2) The primary medical care and services are for the minor’s benefit; and

(3) The minor is a “minor without support”, as defined in section -1.

(b) Any consent given under this section shall be valid and binding as if the minor had reached the age of majority and the minor shall be deemed to have, and shall have the same legal capacity to act, and the same legal obligations with regard to the giving of an informed consent, as a person of full legal age and capacity, the infancy of the minor and any contrary provisions of law notwithstanding.

(c) The consent given under this section shall not be subject to later disaffirmance by reason of the patient’s minority.

(d) No consent of any other person, including a spouse, parent, custodian, or guardian, shall be necessary to authorize a licensed health care practitioner to provide primary medical care and services to a minor without support under this section.

(e) Any licensed health care practitioner who in good faith renders primary medical care and services to a minor without support in accordance with the requirements of subsection (a) shall have immunity from any civil or criminal

liability based on that determination; provided that a licensed health care practitioner whose determination under subsection (a) is the result of gross negligence or wilful or wanton acts or omissions shall be liable for damages suffered by the minor resulting from the gross negligence or wilful or wanton acts or omissions.

(f) If a minor without support consents to receive primary medical care and services, the spouse, parent, custodian, or guardian of the minor shall not be liable for the legal obligations resulting from the primary medical care and services provided by a licensed health care practitioner. A minor without support who consents to the provision of primary medical care and services under this chapter shall assume financial responsibility for the costs of the primary medical care and services. Notwithstanding any other law to the contrary, a spouse, parent, custodian, or guardian whose consent has not been obtained or who has no prior knowledge that a minor without support has consented to the provision of primary medical care and services shall not be liable for the costs incurred by virtue of the minor's consent.

(g) No licensed health care practitioner shall be held liable for treating a minor patient who has misrepresented that he or she is a minor without support.

(h) Notwithstanding any other law to the contrary, an action to recover any debt founded upon any contract, obligation, or liability made pursuant to this chapter shall not commence until the minor without support has reached the age of majority; provided that any action shall commence within two years of the date the minor reaches the age of majority.

(i) If a claim for primary medical care or services obtained under this chapter is filed with a managed care plan or health insurance plan under which a minor without support is enrolled, and the minor does not want the plan to disclose information regarding the claim to a spouse, parent, custodian, or guardian, the minor, or the licensed health care practitioner rendering the primary medical care and services on behalf of the minor, shall so notify the plan prior to submitting the claim. The plan may require that the request for confidential communication be made in writing and that it contain a statement that disclosure of all or part of the information to which the request pertains could endanger the minor. The plan shall have fourteen days to make any changes necessary to comply with the request for confidentiality. The plan may accommodate requests by the minor or the licensed health care practitioner to receive communications related to the primary medical care and services by alternative means or at alternative locations.”

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

(Approved April 23, 2007.)

## ACT 36

H.B. NO. 659

A Bill for an Act Relating to Taro.

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

SECTION 1. Kalo (*Colocasia esculenta* (L.) Schott), the Hawaiian word for taro, is a culturally significant plant to the kanaka maoli, Hawaii's indigenous peoples. According to the kumulipo, the Hawaiian creation chant, kalo grew from the first-born son of Wakea, the sky father, and Papa, the earth mother, through Wakea's relationship with his and Papa's daughter, Hoohokulani. This son, named Haloa, was stillborn and buried. From Haloa's grave grew the first kalo plant. Wakea and Hoohokulani named their second son Haloa, after his older brother. From the

second Haloa came the genesis of man. Kalo provides the kanaka maoli’s life-giving sustenance, poi, and is seen as the older brother of mankind.

Over three hundred kalo varieties may have existed at the time of the arrival of European explorers. Today there are approximately seventy varieties of taro and of these, the majority are unique to the Hawaiian islands due to the horticultural skills of native Hawaiian farmers.

The important cultural relationship between kalo and the kanaka maoli continues today in the cultivation of kalo and ohana, the Hawaiian word for family. The cut stalk of the kalo, called the huli, is planted to become the next generation. Huli means to turn or turnover. When “ohana” is broken into root words, “oha” is the smaller taro corms growing from the older part of the taro plant that is used to feed one’s family and “ana” is a conjunctive word connoting regeneration or procreation.

Therefore, kalo intrinsically ties the interdependency of our past, the present, and the future, the essence of procreation and regeneration, as the foundation of any sustainable practice. Kalo expresses the spiritual and physical well-being of not only the kanaka maoli and their heritage, but also symbolizes the environmental, social, and cultural values important to the State. This relationship is symbolized in the use of the kalo plant upon the crown of King Kalakaua and today in the logo of the office of Hawaiian affairs and many commercial enterprises throughout the state.

The purpose of this Act is to recognize the importance of the kalo in the heritage of the state by adopting, establishing, and designating the kalo plant as the official state plant.

SECTION 2. Chapter 5, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§5- State plant. Kalo (*Colocasia esculenta* (L.) Schott), the Hawaiian word for taro, is adopted, established, and designated as the official plant of the State.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on January 1, 2025.<sup>2</sup>

(Approved April 24, 2007.)

Notes

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

ACT 37

H.B. NO. 1095

A Bill for an Act Relating to Housing.

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

SECTION 1. Section 46-15.1, Hawaii Revised Statutes, is amended to read as follows:

“§46-15.1 **Housing; county powers.** (a) Any law to the contrary notwithstanding, any county shall have and may exercise the same powers, subject to applicable limitations, as those granted the Hawaii housing finance and development corporation pursuant to chapter [201G] 201H insofar as [sueh] those powers may be

reasonably construed to be exercisable by a county for the purpose of developing, constructing, and providing low and moderate income housing; provided that no county shall be empowered to cause the State to issue general obligation bonds to finance a project pursuant to this section; provided further that county projects shall be granted an exemption from general excise or receipts taxes in the same manner as projects of the Hawaii housing finance and development corporation pursuant to section ~~[201G-116];~~ 201H-36; and provided further that the provisions of section ~~[201G-15]~~ 201H-16 shall not apply to this section unless federal guidelines specifically provide local governments with that authorization and the authorization does not conflict with any state laws. The powers shall include the power, subject to applicable limitations, to:

- (1) Develop and construct dwelling units, alone or in partnership with developers;
- (2) Acquire necessary land by lease, purchase, exchange, or eminent domain;
- (3) Provide assistance and aid to a public agency or other person in developing and constructing new housing and rehabilitating old housing for elders of low and moderate income, other persons of low and moderate income, and persons displaced by any governmental action, by making long-term mortgage or interim construction loans available;
- (4) Contract with any eligible bidders to provide for construction of urgently needed housing for persons of low and moderate income;
- (5) Guarantee the top twenty-five per cent of the principal balance of real property mortgage loans, plus interest thereon, made to qualified borrowers by qualified lenders;
- (6) Enter into mortgage guarantee agreements with appropriate officials of any agency or instrumentality of the United States ~~[in order]~~ to induce those officials to commit to insure or insure mortgages under the provisions of the National Housing Act, as amended;
- (7) Make a direct loan to any qualified buyer for the downpayment required by a private lender to be made by the borrower as a condition of obtaining a loan from the private lender in the purchase of residential property;
- (8) Provide funds for a share, not to exceed fifty per cent of the principal amount of a loan made to a qualified borrower by a private lender who is unable otherwise to lend the borrower sufficient funds at reasonable rates in the purchase of residential property; and
- (9) Sell or lease completed dwelling units.

For purposes of this section, a limitation is applicable to the extent that it may reasonably be construed to apply to a county.

(b) Any law to the contrary notwithstanding, any county may:

- (1) Authorize and issue bonds under chapter 47 and chapter 49 to provide moneys to carry out the purposes of this section or section 46-15.2, including the satisfaction of any guarantees made by the county pursuant to this section;
- (2) Appropriate moneys of the county to carry out the purposes of this section;
- (3) Obtain insurance and guarantees from the State or the United States, or subsidies from either;
- (4) Designate, after holding a public hearing on the matter and with the approval of the respective council, any lands owned by it for the purposes of this section;
- (5) Provide interim construction loans to partnerships of which it is a partner and to developers whose projects qualify for federally assisted

project mortgage insurance, or other similar programs of federal assistance for persons of low and moderate income; and

- (6) Adopt [sueh] rules pursuant to chapter 91 as are necessary to carry out the purposes of this section.

(c) The provisions of this section shall be construed liberally so as to [most fully] effectuate the purpose of this section in facilitating the development, construction, and provision of low- and moderate-income housing by the various counties.

(d) For purposes of this section, “low and moderate income housing” means any housing project that meets the definition of “low- and moderate-income housing project” in section 39A-281.”

SECTION 2. Section 46-15.2, Hawaii Revised Statutes, is amended to read as follows:

**“§46-15.2 Housing; additional county powers.** In addition and supplemental to the powers granted to counties by section 46-15.1, any county shall have and may exercise any of the following powers:

- (1) To provide assistance and aid to persons of low and moderate income in acquiring housing by providing loans secured by a mortgage, including by acquiring [sueh] the loans from private lenders for which [sueh] the county has made advance commitment to acquire [sueh] the loans, and to make and execute contracts with private lenders or a public agency for the origination and servicing of [sueh] the loans and pay the reasonable value of [sueh] the services;
- (2) In connection with the exercise of any powers granted under this section or section 46-15.1, to establish one or more loan programs and to issue bonds under chapter 47 or 49 to provide moneys to carry out the purposes of this section or section 46-15.1; provided that:
  - (A) If bonds are issued pursuant to chapter 47 to finance one or more loan programs, the county may establish [sueh] qualifications for the program or programs as it deems appropriate;
  - (B) If bonds are issued pursuant to chapter 49 to finance one or more loan programs, [sueh] the loan program or programs shall comply with the provisions of part III.B of chapter [201G:] 201H, to the extent applicable;
  - (C) If bonds are issued pursuant to section 47-4 or chapter 49, any loan program established pursuant to this section or any county-owned dwelling units constructed under section 46-15.1 shall be and constitute an “undertaking” under section 49-1 and the provisions of chapter 49 shall apply to [sueh] the loan program or county-owned dwelling units to the extent applicable;
  - (D) In connection with the establishment of any loan program pursuant to this section, a county may employ financial consultants, attorneys, real estate counselors, appraisers, and [sueh] other consultants as may be required in the judgment of the county and fix and pay their compensation from funds available to the county therefor;
  - (E) Notwithstanding any limitation otherwise established by law, with respect to the rate of interest on any loan made under any loan program established pursuant to this section, [sueh] the loan may bear [sueh] a rate or rates of interest per year as the county shall determine; provided that no loan made from the proceeds of any bonds of the county shall be under terms or conditions [whieh] that would cause the interest on [sueh] the bonds to be

- deemed subject to income taxation by the United States of America;
- (F) Notwithstanding any limitation otherwise established by law, with respect to the amount of compensation permitted to be paid for the servicing of loans made under any loan program established pursuant to this section, a county may fix [such] any reasonable compensation as the county may determine;
- (G) Notwithstanding the requirement of any other law, a county may establish [such] separate funds and accounts with respect to bonds issued pursuant to chapter 47 or 49 to provide moneys to carry out the purposes of this section or section 46-15.1 as [such] the county may deem appropriate;
- (H) Notwithstanding any provision of chapter 47 or 49 or of any other law, but subject to the limitations of the [~~State Constitution,~~] state constitution, bonds issued to provide moneys to carry out the purposes of this section or section 46-15.1 may be sold at public or private sale at [such] a price, may bear interest at [such] a rate or rates per year, may be payable at [such] the time or times, may mature at [such] the time or times, may be made redeemable before maturity at the option of the county, the holder, or both, at [such] the price or prices and upon [such] terms and conditions, and may be issued in coupon or registered form, or both, all as the county may determine;
- (I) If deemed necessary or advisable, the county may designate a national or state bank or trust company within or without the State to serve as trustee for the holders of bonds issued to provide moneys to carry out the purposes of this section or section 46-15.1 and enter into a trust indenture, trust agreement, or indenture of mortgage with [such] the trustee whereby [such] the trustee may be authorized to receive and receipt for, hold, and administer the proceeds of [such] the bonds and to apply the proceeds to the purposes for which [such] the bonds are issued, or to receive and receipt for, hold, and administer the revenues and other receipts derived by the county from the application of the proceeds of [such] the bonds and to apply [such] the revenues and receipts to the payment of the principal of, or interest on [such] the bonds, or both. Any [such] trust indenture, trust agreement, or indenture of mortgage entered into with the trustee may contain any covenants and provisions as may be deemed necessary, convenient, or desirable by the county [~~in order~~] to secure [such] the bonds. The county may pledge and assign to the trustee any agreements related to the application of the proceeds of [such] the bonds and the rights of the county thereunder, including the rights to revenues and receipts derived thereunder. Upon appointment of the trustee, the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest[;] and for the purchase, registration, transfer, exchange, and redemption, of [such] the bonds, or may elect to limit the functions the director of finance performs as [such] the fiscal agent, and may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform [such] the functions with respect to [such] the payment, purchase, registration, transfer, exchange, and redemption, as the director of finance deems necessary, advisable, or expedient, including[;] without limitation[;] the

holding of [such] the bonds and coupons [which] that have been paid and the supervision and conduction or the destruction thereof in accordance with law;

- (J) If a trustee is not appointed to collect, hold, and administer the proceeds of bonds issued to provide moneys to carry out the purposes of this section or section 46-15.1, or the revenues and receipts derived by the county from the application of the proceeds of [such] the bonds, all as provided in subparagraph (I), the director of finance of [such] the county may hold [such] the proceeds or revenues and receipts, as the case may be, in a separate account in the treasury of the county, to be applied solely to the carrying out of the ordinance, trust indenture, trust agreement, or indenture of mortgage, if any, authorizing or securing [such] the bonds; and
- (K) Any law to the contrary notwithstanding the investment of funds held in reserves and sinking funds related to bonds issued to provide moneys to carry out the purposes of this section or section 46-15.1 shall comply with the provisions of section [201G-167; 201H-77]; provided that any investment [which] that requires approval by the county council pursuant to section 46-48 or 46-50 [must] shall first be approved by the county council.
- (3) To acquire [such] policies of insurance and enter into [such] banking arrangements as [such] the county may deem necessary [in order] to better secure bonds issued to provide money to carry out the purposes of this section or section 46-15.1, including[;] without limitation[;] contracting for a support facility or facilities as may be necessary with respect to bonds issued with a right of the holders to put [such] the bonds and contracting for interest rate swaps; and
- (4) To do any and all other things necessary or appropriate to carry out the purposes and exercise the powers granted in section 46-15.1 and this section.”

SECTION 3. Section 49-1, Hawaii Revised Statutes, is amended by amending the definitions of “loan program” and “undertaking” to read as follows:

““Loan program” means the activities and policies undertaken by any county to provide [assistanece];

- (1) Assistance to members of the general public who are residents of the county by making loans or causing loans to be made available to them for [such] purposes as may be authorized by law[-]; or
- (2) Loans to private nonprofit organizations or public instrumentalities, or to wholly owned affiliates thereof, for the development of low and moderate income housing pursuant to section 46-15.1(a).

“Undertaking” means any public works and properties, improvement, or system owned or operated by the county, and from which the county may derive revenue, or with respect to which the county may derive user taxes, including[-] but not limited to one or a combination of two or more of the following: water, sewerage, gas or electric, heat, light or power works, solid waste processing and disposal, public off-street parking facilities, plants, [and] systems, and low and moderate income housing projects provided pursuant to section 46-15.1, together with all parts thereof and appurtenances thereto.”

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

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

(Approved April 24, 2007.)

**Note**

1. So in original.

**ACT 38**

S.B. NO. 53

A Bill for an Act Relating to Marriage and Family Therapists.

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

SECTION 1. Section 431M-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

““Marriage and family therapist” means a person licensed in marriage and family therapy practice pursuant to chapter 451J.”

2. By amending the definitions of “alcohol or drug dependence outpatient services” and “day treatment services” to read:

““Alcohol or drug dependence outpatient services” means alcohol or drug dependence nonresidential treatment provided on an ambulatory basis to patients with alcohol or drug dependence problems that includes interventions prescribed and performed by qualified physicians, psychologists, licensed clinical social workers, marriage and family therapists, or advanced practice registered nurses. This definition shall not imply a broadening of the scope of or granting of prescriptive authority privileges, except as otherwise allowed pursuant to chapter 457.

““Day treatment services” means treatment services provided by a hospital, mental health outpatient facility, or nonhospital facility to patients who, because of their conditions, require more than periodic hourly service. Day treatment services shall be prescribed by a physician, psychologist, licensed clinical social worker, marriage and family therapist, or advanced practice registered nurse, and carried out under the supervision of a physician, psychologist, licensed clinical social worker, marriage and family therapist, or advanced practice registered nurse. Day treatment services require less than twenty-four hours of care and a minimum of three hours in any one day.”

3. By amending the definition of “mental health outpatient services” to read:

““Mental health outpatient services” means mental health nonresidential treatment provided on an ambulatory basis to patients with mental illness that includes interventions prescribed and performed by a physician, psychologist, licensed clinical social worker, marriage and family therapist, or advanced practice registered nurse.”

4. By amending the definition of “partial hospitalization services” to read:

““Partial hospitalization services” means treatment services, including in-hospital treatment services or benefits, provided by a hospital or mental health outpatient facility to patients who, because of their conditions, require more than periodic hourly service. Partial hospitalization services shall be prescribed by a physician or psychologist, and may be prescribed by a licensed clinical social worker, marriage and family therapist, or advanced practice registered nurse in

consultation with a physician or psychologist [~~or an advanced practice registered nurse in consultation with a physician or psychologist~~]. Partial hospitalization services require less than twenty-four hours of care and a minimum of three hours in any one day.”

5. By amending the definition of “qualified” to read:

““Qualified” means:

- (1) Having skill in the diagnosis or treatment of substance use disorders, based on a practitioner’s credentials, including but not limited to professional education, clinical training, licensure, board or other certification, clinical experience, letters of reference, other professional qualifications, and disciplinary action; or
- (2) Being a licensed physician, psychologist, licensed clinical social worker, marriage and family therapist, or advanced practice registered nurse, and certified pursuant to chapter 321.”

6. By amending the definition of “treatment episode” to read:

““Treatment episode” means one admission to an accredited hospital or nonhospital facility, or office of a qualified physician, psychologist, licensed clinical social worker, marriage and family therapist, or advanced practice registered nurse for treatment of alcohol or drug dependence, or both, as stipulated in a prescribed treatment plan and that would generally produce remission in those who complete the treatment. The prescribed treatment plan may include the provision of substance abuse services in more than one location and may include in-hospital, nonhospital residential, day treatment, or alcohol or drug dependence outpatient services, or any combination thereof. An admission for only detoxification services shall not constitute a treatment episode.”

SECTION 2. Section 431M-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Covered benefits for alcohol dependence, drug dependence, or mental illness insurance policies, hospital or medical service plan contracts, and health maintenance organization health plan contracts shall be limited to those services certified by the insurance or health care plan carrier’s physician, psychologist, licensed clinical social worker, marriage and family therapist, or advanced practice registered nurse as medically or psychologically necessary at the least restrictive appropriate level of care.”

SECTION 3. Section 431M-4, Hawaii Revised Statutes, is amended to read as follows:

“**§431M-4 Mental illness, alcohol and drug dependence benefits.** (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. Visits to a physician, psychologist, licensed clinical social worker, marriage and family therapist, or advanced practice registered nurse 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 the outpatient services would reasonably preclude hospitalization. The total covered benefit for outpatient services in subsections (b) and (c) shall not be less than

twenty-four visits per year; provided that coverage of twelve of the twenty-four outpatient visits shall apply only to the services under subsection (c). The other covered benefits under this chapter shall apply to any of the services in 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. Nothing in this section shall be construed to limit serious mental illness benefits.

(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 that 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 qualified physician, psychologist, licensed clinical social worker, marriage and family therapist, or advanced practice registered nurse shall determine that the person suffers from alcohol or drug dependence, or both; provided that the substance abuse services covered under this paragraph shall include those services that 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 and educational programs to which drinking or drugged drivers are referred by the judicial system and services performed by mutual self-help groups;
- (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 qualified physician, psychologist, licensed clinical social worker, marriage and family therapist, or advanced practice registered nurse and shall be services reasonably expected to produce remission of the patient's condition. An individualized treatment plan approved by a marriage and family therapist, licensed clinical social worker, or an advanced practice registered nurse for a patient already under the care or treatment of a physician or psychologist shall be done in consultation with the physician or psychologist. Services covered under this paragraph shall be included as part of the covered outpatient services as specified in subsection (a); and
- (4) Substance abuse assessments for alcohol or drug dependence as a covered benefit under this section for a child facing disciplinary action under section 302A-1134.6 shall be provided by a qualified physician, psychologist, licensed clinical social worker, advanced practice registered nurse, or certified substance abuse counselor. The certified substance abuse counselor shall be employed by a hospital or nonhospital facility providing substance abuse services. The substance abuse as-

essment shall evaluate the suitability for substance abuse treatment and placement in an appropriate treatment setting.

(c) Mental illness benefits.

- (1) Covered benefits for mental health services set forth in this subsection shall be limited to coverage for diagnosis and treatment of mental disorders. All mental health services shall be provided under an individualized treatment plan approved by a physician, psychologist, licensed clinical social worker, marriage and family therapist, or advanced practice registered nurse and must be reasonably expected to improve the patient’s condition. An individualized treatment plan approved by a licensed clinical social worker, marriage and family therapist, or an advanced practice registered nurse for a patient already under the care or treatment of a physician or psychologist shall be done in consultation with the physician or psychologist;
- (2) In-hospital and nonhospital residential mental health services as a covered benefit under this chapter shall be provided in a hospital or a nonhospital residential facility. The services to be covered shall include those services required for licensure and accreditation, and shall be included as part of the covered in-hospital services as specified in subsection (a);
- (3) Mental health partial hospitalization as a covered benefit under this chapter shall be provided by a hospital or a mental health outpatient facility. The services to be covered under this paragraph shall include those services required for licensure and accreditation and shall be included as part of the covered in-hospital services as specified in subsection (a); and
- (4) Mental health outpatient services shall be a covered benefit under this chapter and shall be included as part of the covered outpatient services as specified in subsection (a).’

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

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

(Approved April 24, 2007.)

**ACT 39**

H.B. NO. 426

A Bill for an Act Relating to Psychotropic Medication.

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

SECTION 1. Section 346-59.9, Hawaii Revised Statutes, is amended to read as follows:

‘[H]§346-59.9[H] **Psychotropic medication.** (a) The department shall not impose any restriction or limitation on the coverage for, or a recipient’s access to, psychotropic medication; provided that the psychotropic medication shall be prescribed by a [licensed] psychiatrist [or by a], physician, or an advanced practice registered nurse with prescriptive authority under chapter 457, duly licensed in the State.

(b) The department shall report to the legislature no later than twenty days before the convening of each regular session on:

- (1) The number of prescriptions written pursuant to this section;
- (2) The cost and impact of psychiatrists, physicians, or advanced practice nurses prescribing medications, pursuant to this section, that are not part of the existing formulary; and
- (3) The overall use of psychotropic medication under chapter 346.

~~[(b)]~~ (c) As used in this section[~~:~~

“~~Psychotropic medication~~”, “psychotropic medication” means only those agents approved by the United States Food and Drug Administration for the treatment of mental or emotional disorders.”

SECTION 2. Act 239, Session Laws of Hawaii 2005, as amended by section 2<sup>1</sup> of Act 311, Session Laws of Hawaii 2006, is amended as follows:

1. By amending sections 4 and 5 to read:

“SECTION [4-] 3. New statutory material is underscored.

SECTION [5-] 4. This Act shall take effect on July 1, 2005[~~, and shall be repealed as it applies to QUEST plans only, on June 30, 2008.~~].”

2. By repealing section 3.

~~[[“SECTION 3. The department of human services shall report to the legislature no later than twenty days before the convening of the regular session of 2007, and annually thereafter. The report shall include:~~

- ~~(1) The number of prescriptions written pursuant to this Act;~~
- ~~(2) The cost and impact of psychiatrists or physicians prescribing medications pursuant to this Act that are not part of the existing formulary; and~~
- ~~(3) The overall utilization under chapter 346, Hawaii Revised Statutes.”]~~

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

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

(Approved April 25, 2007.)

**Note**

- 1. So in original.

**ACT 40**

S.B. NO. 820

A Bill for an Act Relating to Developmental Disabilities.

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

SECTION 1. Section 333F-2, Hawaii Revised Statutes, sets forth the supports and services the department of health administers. These include the administration of early identification of persons with developmental disabilities or mental retardation and critical development, planning, and implementation in coordination with other federal, state, and county agencies of service programs. It establishes a continuum of comprehensive services and residential alternatives in the community

## ACT 40

to allow persons with developmental disabilities or mental retardation to live in the least restrictive, individually appropriate environment.

The purpose of this Act is to extend the repeal date of Act 303, Session Laws of Hawaii 2006, from June 30, 2008, to June 30, 2009, in order to extend the repeal date of amendments made to section 333F-2(c)(9), Hawaii Revised Statutes, and to require a report from the department of health, state council on developmental disabilities.

SECTION 2. The department of health, state council on developmental disabilities shall submit a final report to the legislature no later than twenty days prior to the convening of the regular session of 2009. The report shall contain but not be limited to:

- (1) The number of persons with developmental disabilities or mental retardation who choose to live independently as provided by Act 303, Session Laws of Hawaii 2006;
- (2) The financial impact Act 303, Session Laws of Hawaii 2006, has had on the State; and
- (3) Any findings and recommendations, including any proposed legislation.

SECTION 3. Act 303, Session Laws of Hawaii 2006, is amended by amending section 2 to read as follows:

“SECTION 2. The department of health, state council on developmental disabilities shall submit a preliminary report to the legislature no later than twenty days prior to the convening of the regular session of 2007 and a [final] progress report no later than twenty days prior to the convening of the regular session of 2008. The reports shall contain but not be limited to:

- (1) The number of persons with developmental disabilities or mental retardation who choose to live independently as provided by this Act;
- (2) The financial impact this Act has had on the State; and
- (3) Any findings and recommendations, including any proposed legislation.”

SECTION 4. Act 303, Session Laws of Hawaii 2006, is amended by amending section 4 to read as follows:

“SECTION 4. This Act shall take effect upon its approval, and shall be repealed on June 30, [2008;] 2009; provided that section 333F-2, Hawaii Revised Statutes, shall be reenacted in the form in which it read prior to this Act taking effect.”

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

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

(Became law on April 25, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 41

S.B. NO. 95

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

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

SECTION 1. As a result of implementing Act 51, Session Laws of Hawaii 2004, as amended by Act 221, Session Laws of Hawaii 2004, as amended by Act 225, Session Laws of Hawaii 2006 (Act 51, as amended), section 302A-1115, Hawaii Revised Statutes, is no longer required to provide flexibility to the department of education. Under Act 51, as amended, the number and type of positions at the school level are determined by the individual school due to the implementation of the weighted student formula. Act 51, as amended, also provides the department of education with the authority to transfer positions within the department, and with the transfer of functions from the department of human resources development, the department of education carries out personnel functions as a separate jurisdiction. Accordingly, the purpose of this Act is to repeal section 302A-1115, Hawaii Revised Statutes.

SECTION 2. Section 302A-1115, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed and stricken.<sup>1</sup>

SECTION 4. This Act shall take effect July 1, 2007.

(Became law on April 25, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 42

S.B. NO. 1509

A Bill for an Act Relating to High Occupancy Vehicle (HOV) Lanes.

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

SECTION 1. Section 291C-53, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director of transportation by rules adopted in accordance with chapter 91, and the counties by ordinance, may regulate or prohibit the use of any controlled-access roadway or highway within their respective jurisdictions by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic. Persons operating motorcycles which are otherwise permitted on a controlled-access roadway or highway shall be permitted to use any high occupancy vehicle lane designated on such roadway or highway. For the purposes of this subsection, “high occupancy vehicle lane” means a designated lane of a laned roadway where the use of such designated lane is restricted to vehicles carrying at least ~~two~~ the minimum number of persons designated by the director of transportation as indicated on official signs and other official traffic-control devices, and to other vehicles as provided by rules adopted in accordance with chapter 91, or by county ordinance. Notwithstanding any law to the contrary, no person shall operate a neighborhood electric vehicle on any controlled-access roadway or highway.”

**ACT 43**

SECTION 2. Section 291C-221, Hawaii Revised Statutes, is amended to read as follows:

“§291C-221 Definitions. As used in this part unless the context otherwise requires:

“High occupancy vehicle” means a vehicle carrying at least ~~[two]~~<sup>1</sup> the minimum number of persons ~~[;]~~ designated by the director of transportation as indicated on official signs and other official traffic-control devices, and other vehicles as provided by rules adopted in accordance with chapter 91 or by county ordinance.

“High occupancy vehicle lane” means a designated lane of a laned roadway where the use of the designated lane is restricted to school buses, vehicles carrying at least ~~[two]~~ the minimum number of persons ~~[;]~~ designated by the director of transportation on official signs and other official traffic-control devices, and to other vehicles as provided by rules adopted in accordance with chapter 91, or by county ordinance.”

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

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved April 26, 2007.)

**Note**

1. So in original.

**ACT 43**

S.B. NO. 1287

A Bill for an Act Relating to Highway Safety.

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

SECTION 1. Section 286-209, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Motor carrier vehicles, including but not limited to trucks, truck-tractors, semitrailers, trailers, or pole trailers having a gross vehicle weight rating of more than ~~[10,000]~~ ten thousand pounds, and motor carrier vehicles having a gross vehicle weight rating of ~~[10,000]~~ ten thousand pounds or less which transport passengers in the furtherance of a commercial enterprise, including car rental transport vehicles shall be inspected and certified ~~[once every twelve months during the month in which the vehicle’s certificate of motor vehicle registration is issued.]~~ annually.”

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

SECTION 3. This Act shall take effect on January 1, 2008.

(Approved April 26, 2007.)

## ACT 44

S.B. NO. 1370

A Bill for an Act Relating to Special Purpose Revenue Bonds.

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

SECTION 1. Section 39A-34, Hawaii Revised Statutes, is amended to read as follows:

“**§39A-34 Conditions precedent to negotiating and entering into a project agreement.** (a) The department, prior to entering into negotiations with any project party, shall require that the ~~[State shall be reimbursed for any and]~~ project party shall agree to pay all fees, costs, and expenses (direct or indirect) [incurred] assessed by [it] the department 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.] to pay for fees, costs, and expenses. Any amount of ~~[such] the~~ deposit in excess of the amount required to ~~[reimburse] pay~~ the State shall be returned by the department to the party ~~[which has] that~~ made ~~[such] the~~ deposit. The State shall not be required to pay to the project party any interest or earnings on ~~[such] the~~ deposit.

(b) 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]:~~

- (1) 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] the project, or otherwise[;]; or [that the]
- (2) 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] the project, or otherwise.”

SECTION 2. Section 39A-35, Hawaii Revised Statutes, is amended to read as follows:

“**§39A-35 Project agreement.** No special purpose revenue bonds shall be issued unless at the time of issuance the department shall have entered into a project agreement with respect to the project for the financing or refinancing of which ~~[such] the~~ 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] the~~ sum or sums, at ~~[such] the~~ time or times, and in ~~[such] the~~ amounts that ~~[will] shall~~ 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]~~ the bonds become due, including any premium payable upon any required redemption of ~~[such] the~~ bonds;
  - (B) To establish or maintain ~~[such] a~~ 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] assessed~~ in connection with ~~[such] the~~ special purpose revenue bonds; and

- (D) To pay the fees, costs, and expenses (direct or indirect) [~~incurred~~] assessed by the [State, as determined by the] department[;] in administering [~~such~~] the bonds or in carrying out the project agreement[-]; and
- (2) To operate, maintain, and repair the project as long as [~~the same~~] it is used in the provision of health care to the general public, and to pay all costs of [~~such~~] the operation, maintenance, and repair.

Moneys received by the department pursuant to paragraph (1)(D) [~~of this section~~] shall not be, nor be deemed to be, revenues of the project and shall be paid into the general fund of the State.”

SECTION 3. Section 39A-74, Hawaii Revised Statutes, is amended to read as follows:

**“§39A-74 Conditions precedent to negotiating and entering into a project agreement.** (a) The department, prior to entering into negotiations with respect to a project agreement or at any time during [~~such~~] the negotiations, shall require that as a condition to [~~such~~] the negotiations or the continuation thereof the [~~State shall be reimbursed for any and~~] project party shall agree to pay all fees, costs, and expenses [~~incurred~~] (direct or indirect) assessed by [~~it~~] the department even though a project agreement may not be entered into and may further require the deposit of moneys with the department [~~as security for such reimbursement.~~] to pay for fees, costs, and expenses. Any amount of [~~such~~] the deposit in excess of the amount required to reimburse the State shall be returned by the department to the party [~~which has~~] that made [~~such~~] the deposit. The State shall not be required to pay to the project party any interest or earnings on the deposit.

(b) The department shall not enter into any project agreement with respect to any project unless the legislature shall have first authorized the issuance of special purpose revenue bonds to finance [~~such~~] the project pursuant to section 39A-77 and the department has [~~thereafter found and~~] determined [~~either~~] that [~~the~~]:

- (1) 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~~] the project, or otherwise[;]; or [~~that the~~]
- (2) 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~~] the project, or otherwise.”

SECTION 4. Section 39A-75, Hawaii Revised Statutes, is amended to read as follows:

**“§39A-75 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 of which [~~such~~] the 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~~] the sum or sums, at [~~such~~] the time or times, and in [~~such~~] the amounts that [~~will~~] shall 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~~]

- the bonds become due, including any premium payable upon any required redemption of [such] the bonds;
- (B) To establish or maintain [such] a 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] assessed in connection with [such] the special purpose revenue bonds; and
- (D) To pay the fees, costs, and expenses (direct or indirect) [incurred] assessed by the [State, as determined by the] department[;] in administering [such] the bonds or in carrying out the project agreement~~[-];~~ and
- (2) To operate, maintain, and repair the project as long as ~~[the same]~~ it is used as provided in the project agreement and to pay all costs of [such] the operation, maintenance, and repair.

Moneys received by the department pursuant to paragraph (1)(D) shall not be, or be deemed to be, revenues of the project and shall be paid into the general fund of the State.”

SECTION 5. Section 39A-114, Hawaii Revised Statutes, is amended to read as follows:

**“§39A-114 Conditions precedent to negotiating and entering into a project agreement.** (a) The department, prior to entering into negotiations with respect to a project agreement or at any time during [such] negotiations, shall require that as a condition to [such] the negotiations or the continuation thereof, the [State shall be reimbursed for any and] project party shall agree to pay all fees, costs, and expenses [incurred] (direct or indirect) assessed by [it] the department even though a project agreement may not be entered into and may further require the deposit of moneys with the department [as security for such reimbursement.] to pay for fees, costs, and expenses. Any amount of [such] the deposit in excess of the amount required to reimburse the State shall be returned by the department to the party [which has] that made [such] the deposit. The State shall not be required to pay to the project party any interest or earnings on the deposit.

(b) The department shall not enter into any project agreement with respect to any project unless the legislature shall have first authorized the issuance of special purpose revenue bonds to finance such project pursuant to section 39A-117 and the department has [thereafter found and] determined [either] that [the]:

- (1) 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] the project, or otherwise[;]; or [that the]
- (2) 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] the project, or otherwise.”

SECTION 6. Section 39A-115, Hawaii Revised Statutes, is amended to read as follows:

**“§39A-115 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 of which [such] the revenue bonds are to be issued. Any project agreement entered into by the department shall contain provisions unconditionally obligating the project party:

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- (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, [sueh] the sum or sums, at [sueh] the time or times, and in [sueh] the amounts that [will] shall 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~~] the bonds become due, including any premium payable upon any required redemption of [sueh] the bonds;
  - (B) To establish or maintain [sueh] a 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~~] assessed in connection with [sueh] the special purpose revenue bonds; and
  - (D) To pay the fees, costs, and expenses (direct or indirect) [~~incurred~~] assessed by the [State, as determined by the] department[;] in administering [sueh] the bonds or in carrying out the project agreement[;]; and
- (2) To operate, maintain, and repair the project as long as [~~the same~~] it is used as provided in the project agreement and to pay all costs of [sueh] the operation, maintenance, and repair.

Moneys received by the department pursuant to paragraph (1)(D) shall not be, or be deemed to be, revenues of the project and shall be paid into the general fund of the State.”

SECTION 7. Section 39A-154, Hawaii Revised Statutes, is amended to read as follows:

**“§39A-154 Conditions precedent to negotiating and entering into a project agreement. (a)** The department, prior to entering into negotiations with respect to a project agreement or at any time during [sueh] negotiations, shall require that as a condition to [sueh] the negotiations or the continuation thereof, the [State shall be reimbursed for any and] project party shall agree to pay all fees, costs, and expenses [~~incurred~~] (direct or indirect) assessed by [it] the department even though a project agreement may not be entered into and may further require the deposit of moneys with the department [~~as security for such reimbursement.] to pay for fees, costs, and expenses.~~ Any amount of [sueh] the deposit in excess of the amount required to reimburse the State shall be returned by the department to the party [which has] that made [sueh] the deposit. The State shall not be required to pay to the project party any interest or earnings on the deposit.

(b) The department shall not enter into any project agreement with respect to any project unless the legislature shall have first authorized the issuance of special purpose revenue bonds to finance [sueh] the project pursuant to section 39A-157 and the department has [~~thereafter found and~~] determined [either] that [the]:

- (1) The project party is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through [sueh] the project, or otherwise[;]; or [that the]
- (2) 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 [sueh] the project, or otherwise.”

SECTION 8. Section 39A-155, Hawaii Revised Statutes, is amended to read as follows:

**“§39A-155 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 of which ~~[such] the~~ 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] the~~ sum or sums, at ~~[such] the~~ time or times, and in ~~[such] the~~ amounts that ~~[will] shall~~ 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] the bonds~~ become due, including any premium payable upon any required redemption of ~~[such] the~~ bonds;
  - (B) To establish or maintain ~~[such] a~~ 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] assessed~~ in connection with ~~[such] the~~ special purpose revenue bonds; and
  - (D) To pay the ~~fees, costs, and~~ expenses (direct or indirect) ~~[incurred] assessed~~ by the ~~[State, as determined by the] department[;]~~ in administering ~~[such] the~~ bonds or in carrying out the project agreement~~[;]~~; and
- (2) To operate, maintain, and repair the project as long as ~~[the same] it~~ is used as provided in the project agreement and to pay all costs of ~~[such] the~~ operation, maintenance, and repair.

Moneys received by the department pursuant to paragraph (1)(D) shall not be, or be deemed to be, revenues of the project and shall be paid into the general fund of the State.”

SECTION 9. Section 39A-194, Hawaii Revised Statutes, is amended to read as follows:

**“§39A-194 Conditions precedent to negotiating and entering into a project agreement.** (a) The department, prior to entering into negotiations with any project party, shall require that the ~~[State shall be reimbursed for any and] project party shall agree to pay all fees, costs, and expenses (direct or indirect) [incurred] assessed by [it] the department 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 [as security for such reimbursement.] to pay for fees, costs, and expenses.~~ Any amount of ~~[such] the~~ deposit in excess of the amount required to ~~[reimburse] pay~~ the State shall be returned by the department to the project party ~~[which has] that made [such] the~~ deposit. The State shall not be required to pay to the project party any interest or earnings on ~~[such] the~~ deposit.

(b) The department shall not enter into any project agreement with respect to any energy project unless the department shall ~~[first find and] determine [either] that [the]:~~

- (1) 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] the project, or otherwise[;]; or [that the]
- (2) 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] the energy project, or otherwise."

SECTION 10. Section 39A-195, Hawaii Revised Statutes, is amended to read as follows:

**"§39A-195 Project agreement.** No special purpose revenue bonds shall be issued unless at the time of issuance the department shall have already entered into a project agreement with respect to the energy project for the financing of which [such] the 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 energy project is used or occupied by the project party, [such] the sum or sums, at [such] the time or times, and in [such] the amount or amounts that [will] shall be [at least] sufficient:
  - (A) To pay the principal and interest on all special purpose revenue bonds issued to finance the energy project as [and when] the bonds become due, including any premium payable upon any required redemption of [such] the bonds;
  - (B) To establish or maintain [such] a 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] assessed in connection with [such] the special purpose revenue bonds; and
  - (D) To pay the fees, costs, and expenses (direct or indirect) [incurred] assessed by the [State;] department in administering [such] the bonds or in carrying out the project agreement, as determined by the department[-]; and
- (2) To operate, maintain, and repair the energy project as long as [the same] it is used in the business of local furnishing of electric energy or gas, and to pay all costs of [such] the 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 energy project and shall be paid into the general fund of the State."

SECTION 11. Section 39A-224, Hawaii Revised Statutes, is amended to read as follows:

**"[§]§39A-224[§] Conditions precedent to negotiating and entering into a project agreement.** (a) The department, prior to entering into negotiations with any project party, shall require that the [State shall be reimbursed for any and] project party shall agree to pay all fees, costs, and expenses (direct or indirect) [incurred] assessed by [it] the department 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.] to pay for fees, costs, and expenses. Any amount of [such] the deposit in excess of the amount required to [reimburse] pay the State shall be returned by the department to the party [~~which has~~] that made [such] the deposit. The State shall not be required to pay to the project party any interest or earnings on [such] the deposit.

(b) 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]:

- (1) 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~~]
- (2) 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] the project, or otherwise.”

SECTION 12. Section 39A-225, Hawaii Revised Statutes, is amended to read as follows:

“[~~§~~39A-225] **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] the 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] the sum or sums, at [such] the time or times, and in [such] the amounts that [~~will~~] shall 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~~] the bonds become due, including any premium payable upon any required redemption of [such] the bonds;
  - (B) To establish or maintain [such] a 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~~] assessed in connection with [such] the special purpose revenue bonds; and
  - (D) To pay the fees, costs, and expenses (direct or indirect) [~~incurred~~] assessed by the [~~State, as determined by the~~] department[;] in administering [such] the bonds or in carrying out the project agreement[;]; and
- (2) To operate, maintain, and repair the project as long as [~~the same~~] it is used in the provision of early childhood education and care to the general public, and to pay all costs of [such] the 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.”

SECTION 13. Section 39A-254, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]§39A-254[H]~~ **Conditions precedent to negotiating and entering into a project agreement.** (a) Prior to entering into negotiations with any project party, the department shall require that the ~~[State be reimbursed for any]~~ project party shall agree to pay all fees, costs, and expenses (direct or indirect) [incurred] assessed by [it] the department in implementing and administering this part, as determined by the department, even though a project agreement may not be entered into. The department may further require the deposit of moneys with it ~~[for such reimbursement.]~~ to pay for fees, costs, and expenses. The department shall return any amount of the deposit exceeding the amount required to reimburse the State to the party that made the deposit. The State shall not be required to pay to the project party any interest or earnings on the deposit.

(b) 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]~~:

- (1) The project party is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through the project, or some other reason[.]; or ~~[that the]~~
- (2) 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 the project, or some other reason.”

SECTION 14. Section 39A-255, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]§39A-255[H]~~ **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]~~ the revenue bonds are to be issued.

Any project agreement entered into by the department shall contain provisions unconditionally obligating the project party to:

- (1) 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]~~ the sum at [such] the time in [such] the amount that [will] shall be [at least] sufficient to:
  - (A) Pay the principal and interest on all special purpose revenue bonds issued with respect to the project as ~~[and when]~~ they become due, including any premium payable upon any required redemption of ~~[such]~~ the bonds;
  - (B) Establish or maintain ~~[such]~~ a reserve, if any, as may be required by the instrument authorizing or securing the special purpose revenue bonds;
  - (C) Pay all fees and expenses, including the fees and expenses of the paying agents and trustees, ~~[incurred]~~ assessed in connection with [such] the special purpose revenue bonds; and
  - (D) Pay the fees, costs, and expenses (direct or indirect) [incurred] assessed by the [State, as determined by the] department[.]; in administering ~~[such]~~ the bonds or in carrying out the project agreement; and
- (2) Operate, maintain, and repair the project as long as it is used in the provision of not-for-profit private nonsectarian and sectarian elementary, secondary, college-level, and university-level education to the general public, and to pay all costs of its 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.”

SECTION 15. Section 39A-284, Hawaii Revised Statutes, is amended to read as follows:

“~~[§39A-284]~~ **Conditions precedent to negotiating and entering into a project agreement.** (a) Prior to entering into negotiations with any project party, the department shall require that the project party ~~[reimburse the State for any and]~~ shall agree to pay all fees, costs, and expenses, ~~[direct or indirect, incurred]~~ (direct or indirect) assessed by the ~~[State]~~ department in implementing and administering this part, as determined by the department, even though a project agreement may not be entered into ~~[and]~~. The department may further require the deposit of moneys with the department ~~[for reimbursement.]~~ to pay for fees, costs, and expenses. The department shall return any amount of the deposit exceeding the amount required to reimburse the State to the party that made the deposit. The State shall not be required to pay to the project party any interest or earnings on the deposit.

(b) The department shall not enter into any project agreement with respect to any project unless the department shall ~~[first find and]~~ determine ~~[either]~~ that:

- (1) The project party is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through the project or some other reason; or
- (2) 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 the project or some other reason.”

SECTION 16. Section 39A-285, Hawaii Revised Statutes, is amended to read as follows:

“~~[§39A-285]~~ **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 the bonds are to be issued. Any project agreement entered into by the department shall contain provisions unconditionally obligating the project party to:

- (1) 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, a sum<sub>1</sub> at a time<sub>2</sub> and in an amount that shall be ~~[at least]~~ sufficient to:
  - (A) Pay the principal and interest on all special purpose revenue bonds issued with respect to the project as ~~[and when]~~ they become due, including any premium payable upon any required redemption of the bonds;
  - (B) Establish or maintain a reserve, if any, as may be required by the instrument authorizing or securing the special purpose revenue bonds;
  - (C) Pay all fees and expenses, including the fees and expenses of the paying agents and trustees, ~~[incurred]~~ assessed in connection with the special purpose revenue bonds; and
  - (D) Pay the fees, costs, and expenses~~[; direct or indirect, incurred]~~ (direct or indirect) assessed by the ~~[State, as determined by the]~~ department~~[;]~~ in administering the bonds or in carrying out the project agreement; and

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- (2) Operate, maintain, and repair the project as long as it is used to provide low- and moderate-income housing, and to pay all costs of 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.”

SECTION 17. Section 39A-314, Hawaii Revised Statutes, is amended to read as follows:

**“§39A-314 Conditions precedent to negotiating and entering into a project agreement.** (a) Prior to entering into negotiations with respect to a project agreement or at any time during the negotiations, the department shall require that as a condition to the negotiations or the continuation thereof, the ~~[State shall be reimbursed for any and]~~ project party shall agree to pay all fees, costs, and expenses ~~[incurred]~~ assessed by ~~[it]~~ the department even though a project agreement may not be entered into ~~[and]~~. The department may further require the deposit of moneys with the department as security ~~[for the reimbursement.]~~ to pay for fees, costs, and expenses. Any amount of the deposit in excess of the amount required to ~~[reimburse]~~ pay the State shall be returned by the department to the party that has made the deposit. The State shall not be required to pay to the project party any interest or earnings on ~~[such]~~ the deposit.

(b) The department shall not enter into any project agreement with respect to any project unless the legislature shall have first authorized the issuance of special purpose revenue bonds to finance the project pursuant to section 39A-317 and the department has ~~[hereafter found and]~~ determined ~~[either]~~ that ~~[the]~~:

- (1) The project party is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through the project, or otherwise[.]; or [that the]
- (2) 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 the project, or otherwise.”

SECTION 18. Section 39A-315, Hawaii Revised Statutes, is amended to read as follows:

**“§39A-315 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 of which the special purpose 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, the sum or sums, at the time or times, and in the amounts that [will] shall 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] the bonds become due, including any premium payable upon any required redemption of the bonds;
  - (B) To establish or maintain a reserve, if any, that 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~~] assessed in connection with the special purpose revenue bonds; and
- (D) To pay the fees, costs, and expenses [~~-, direct or indirect, incurred~~] (direct or indirect) assessed by the [~~State, as determined by the~~] department[;] in administering the bonds or in carrying out the project agreement; and
- (2) To operate, maintain, and repair the project as long as [~~the same~~] it is used, as provided in the project agreement, and to pay all costs of the operation, maintenance, and repair.

Moneys received by the department pursuant to paragraph (1)(D) shall not be, or be deemed to be, revenues of the project and shall be paid into the general fund of the State.”

SECTION 19. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 20. This Act shall take effect upon its approval.

(Approved April 26, 2007.)

**ACT 45**

H.B. NO. 1414

A Bill for an Act Making an Emergency Appropriation for Department of Taxation County Surcharge Implementation Costs.

*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 purpose of this Act is to make an emergency appropriation to the department of taxation to address unbudgeted expenses incurred by the department in implementing the administration of the county surcharge on state general excise tax provided for under section 46-16.8, Hawaii Revised Statutes.

SECTION 3. Act 247, Session Laws of Hawaii 2005, authorized the counties to adopt a county surcharge on state general excise tax, the revenue from which was to be deposited for the benefit of any adopting county. The purpose of the county surcharge was to provide the counties with a means of financing a preferred mass transit alternative. Act 247 placed the burden of administering and collecting the county surcharge on the department of taxation. The burdens of administering the county surcharge include assessment, collection, processing, accounting, and enforcement of the surcharge for the benefit of an enacting county.

Although Act 247 placed the administrative duties of county surcharge collection on the department of taxation, Act 247 contained no appropriation to offset the direct costs incident to administering the county surcharge.

The city and county of Honolulu was the only county to adopt a county surcharge on state general excise tax. Adopting this surcharge triggered the department of taxation’s responsibilities regarding assessment and collection of the surcharge.

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Assessment, collection, processing, accounting, and enforcement of the county surcharge imposed a substantial financial burden on the department of taxation that was not resolved by Act 247. Costs the department of taxation incurred include substantial computer upgrades, substantial personnel and professional time, public outreach, and additional personnel to assist with the department's other obligations.

In response to the department of taxation's unfunded mandate to assess and collect the county surcharge, the city and county of Honolulu agreed to guarantee the department of taxation's costs up to \$5,000,000. This guarantee is for costs that have been incurred up until the legislature can consider this emergency appropriation to pay the vendor and other costs. This request for an appropriation is on an emergency basis because the city and county of Honolulu has guaranteed the payments to the computer vendor and the department of taxation's out-of-pocket expenditures, up to \$5,000,000, if the legislature does not appropriate moneys to the department of taxation that is signed into law or otherwise takes effect by March 30, 2007, before the regular session of 2007 is adjourned sine die.

The legislature finds that this emergency appropriation is necessary and in the best interest of the public to assure that the city and county of Honolulu's county surcharge on state general excise tax is not adversely impacted. An adverse impact could ultimately affect the funding of the city and county of Honolulu's mass transit project, including the ability of the city and county of Honolulu to obtain federal funding for the mass transit project. Moreover, this emergency appropriation is necessary and in the best interest of the public because failure to provide this appropriation will result in the city and county of Honolulu surrendering its guarantee for these costs.

SECTION 4. In accordance with article VII, section 9, of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 has already been exceeded by \$90,137,694 or 1.68 per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$5,041,691 or an additional 0.094 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,041,691 or so much thereof as may be necessary for fiscal year 2006-2007 to reimburse the department of taxation for costs incurred in implementing and administering the county surcharge on state general excise tax, including the costs of the computer vendor.

The sum appropriated shall be expended by the department of taxation for the purposes of this Act.

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

(Approved April 27, 2007.)

## ACT 46

S.B. NO. 1441

A Bill for an Act Relating to Certification of Child Placing Organizations, Child Caring Institutions, Foster Boarding Homes, and Adoptive Homes.

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

SECTION 1. Section 346-17, Hawaii Revised Statutes, is amended to read as follows:

**“§346-17 Child placing organizations, child caring institutions, and foster boarding homes; authority over, investigation of, and standards for.** (a) No child placing organization shall engage in the investigation, placement, and supervision of minor children in foster care unless it meets the standards of conditions, management, and competence set by the department of human services.

(b) No child caring institution shall receive minor children for care and maintenance unless it meets the standards of conditions, management, and competence to care for and train children set by the department.

(c) No foster boarding home shall receive for care and maintenance any child unless:

- (1) It meets with the standards of conditions, management, and competence set by the department; and
- (2) The foster boarding home applicant successfully completes foster parent training; provided that after July 1, 1999, new special licensed or relative foster home care providers licensed for a specific child or children shall successfully complete foster parent training within the first year following placement of the first child into the new special licensed or relative foster home.
- (d) The department shall adopt rules pursuant to chapter 91 relating to:
  - (1) Standards for the organization and administration of child placing organizations;
  - (2) Standards of conditions, management, and competence for the care and training of minor children in child caring institutions and foster boarding homes; and
  - (3) Standards of conditions and competence of operation of foster boarding homes as may be necessary to protect the welfare of children.

(e) All rules of the department shall have the force and effect of law, and any violation thereof or of this section shall be punishable by a fine of not more than \$200.

(f) As a condition for a certificate of approval, any organization, institution, or foster boarding home, including all adults residing in the foster boarding home, shall:

- (1) Meet [the] all standards [ensuring the reputable and responsible character of its operators and employees;] and requirements established by the department;
- (2) Be subject to criminal history record checks in accordance with section 846-2.7[;] and child abuse and neglect registry checks, in accordance with departmental procedures; and
- (3) Provide consent to the department to obtain criminal history record and child abuse and neglect registry information.

New employees of the organization, institution, or home shall be fingerprinted within five working days of employment.

(g) Upon approval of the organization, institution, or foster boarding home, the department or its authorized agents shall issue a certificate of approval that shall

continue in force for one year or for two years if the organization, institution, or foster boarding home meets the criteria established by the department, unless sooner revoked for cause. The certificate shall be renewed by the department or its authorized agents, after annual or biennial investigation, if the investigation discloses that the organization, institution, or foster boarding home continues to meet ~~[with]~~ the standards set by the department. The certificate of approval shall be a permit to operate the child placing organization, child caring institution, or foster boarding home, and no person or organization shall operate or maintain the organization, institution, or foster boarding home without the certificate.

(h) Any child placing organization, child caring institution, or foster boarding home shall be subject to review or investigation at any time and in a manner, place, and form as may be prescribed by the department or its authorized agents.

(i) As used in this section, "foster parent training" means training or instruction in special skills and knowledge to care for foster children.

(j) The department shall request [a]:

(1) A criminal history record check through the Hawaii criminal justice data center on all operators, employees, and new employees of child care institutions, child placing organizations, and foster boarding homes, including all adults residing in the foster boarding homes, subject to licensure pursuant to section 846-2.7[;]; and

(2) A child abuse and neglect registry check on all operators, employees, and new employees of child care institutions, child placing organizations, and adults residing in a foster boarding home subject to licensure in accordance with departmental procedures.

(k) The department may deny a certificate of approval if an operator, employee, or new employee of ~~[the] a child care institution or child placing organization's facility, or any adult residing in a foster boarding home,~~ was convicted of a crime other than a minor traffic violation involving a fine of \$50 or less and if the department finds that the criminal history record or child abuse registry history of an operator, employee, ~~[or] new employee, or adult residing in a foster boarding home~~ poses a risk to the health, safety, or well-being of the children in care.

(l) The department shall make a name inquiry into the criminal history records for the first two years of certification of a foster boarding home and annually or biennially thereafter and into the child abuse and neglect registry in accordance with departmental procedures depending on the certification status of the home."

SECTION 2. Section 346-19.7, Hawaii Revised Statutes, is amended to read as follows:

**"§346-19.7 Prospective adoptive parents; standards and home studies.**

(a) The department shall develop standards to ensure the reputable and responsible character of prospective adoptive parents as defined in this chapter.

(b) The department shall develop procedures for obtaining verifiable information regarding the criminal history and child abuse and neglect registry information of persons who are seeking to become adoptive parents. These procedures shall include criminal history record checks in accordance with section 846-2.7.

(c) Except as otherwise specified, any person who seeks to become an adoptive parent, including all adults residing in the prospective adoptive home, shall:

- (1) Meet all standards and requirements established by the department;
- (2) Be subject to criminal history record checks in accordance with section 846-2.7[;], and child abuse and neglect registry checks in accordance with departmental procedures; and
- (3) Provide consent to the department to obtain criminal history record and child abuse and neglect registry information ~~[for verification].~~

Information obtained pursuant to subsection (b) and this subsection shall be used [~~exclusively~~] by the department for the purpose of determining whether or not a person is suitable to be an adoptive parent. All [~~such~~] decisions shall be subject to federal laws and regulations [~~currently or hereafter in effect~~].

(d) The department may deny a person's application to adopt a child [~~or children~~] if either of the prospective adoptive parents or any adult residing in the prospective adoptive home was convicted of an offense for which incarceration is a sentencing option, and if the department finds by reason of the nature and circumstances of the crime that either of the prospective adoptive parents, or any adult residing in the prospective adoptive home, poses a risk to the health, safety, or well-being of the child [~~or children~~]. [~~Such~~] A denial [may] shall occur only after appropriate investigation, notification of results and planned action, and opportunity to meet and rebut the finding, all of which need not be conducted in accordance with chapter 91.

(e) The department may deny a person's application to adopt a child if either of the prospective adoptive parents or any adult residing in the prospective adoptive home has a history of confirmed child abuse or neglect, or both, revealed by the child abuse and neglect registry check, and if the department finds by reason of the nature and circumstances of the abuse or neglect, or both, that either of the prospective adoptive parents or any adult residing in the prospective adoptive home poses a risk to the health, safety, or well-being of the child. A denial shall occur only after an appropriate investigation, notification of results and planned action, and an opportunity to meet and rebut the finding, all of which need not be conducted in accordance with chapter 91.

~~[(e)]~~ (f) The department may authorize or contract for home studies of prospective adoptive parents for children under the department's custody by experienced social workers with specialized adoption experience."

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

SECTION 4. This Act shall take effect upon approval.

(Approved April 27, 2007.)

## ACT 47

H.B. NO. 1248

A Bill for an Act Relating to Name Changes.

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

SECTION 1. Section 574-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) It shall be unlawful to change any name adopted or conferred under this chapter, except:

- (1) Upon an order of the lieutenant governor;
- (2) By a final order, decree, or judgment of the family court issued as follows:
  - (A) When in an adoption proceeding a change of name of the person to be adopted is requested and the court includes the change of name in the adoption decree;

- (B) When in a divorce proceeding either party to the proceeding requests to resume the middle name or names and the last name used by the party prior to the marriage or a middle name or names and last name declared and used during any prior marriage and the court includes the change of names in the divorce decree; or
- (C) When in a proceeding for a change of name of a legitimate or legitimated minor initiated by one parent, the family court, upon proof that the parent initiating the name change has made all reasonable efforts to locate and notify the other parent of the name change proceeding but has not been able to locate, notify, or elicit a response from the other parent, and after an appropriate hearing, orders a change of name determined to be in the best interests of the minor; provided that the family court may waive the notice requirement to the noninitiating, noncustodial parent where the court finds that the waiver is necessary for the protection of the minor;
- (3) Upon marriage pursuant to section 574-1;
- (4) Upon legitimation pursuant to section 338-21; or
- (5) By an order or decree of any court of competent jurisdiction within any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, changing the name of a person born in this State.

Any law to the contrary notwithstanding, no person who is a covered offender subject to the registration requirements of section 846E-2 may obtain a name change, other than as provided in paragraph (2), (3), (4), or (5), unless a court determines that it is in the best interest of justice to grant the petition and that doing so will not adversely affect the public safety.”

SECTION 2. New statutory material is underscored.

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

(Approved May 1, 2007.)

## ACT 48

H.B. NO. 1103

A Bill for an Act Relating to Asian Lunar New Year Commemoration.

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

SECTION 1. Chinese New Year is the preeminent day of commemoration of culture and arts for more than one quarter of the world’s population. A special Chinese calendar is used to determine festivals. Various Chinese communities around the world use this calendar, including Taiwan, Hong Kong, Singapore, and South East Asian countries such as Thailand, Vietnam, and Laos.

The beginnings of the Chinese calendar date back to the fourteenth century B.C. The Chinese calendar is the exact astronomical observations of the longitude of the sun and phases of the moon, which indicates that the Chinese calendar is heavily influenced by the same principles of modern astronomy. Determining the exact date of each Chinese New Year requires a number of astronomical calculations. Historically, the Chinese New Year Day has practically been regarded as the only day of the year when China’s hard-working peasants allowed themselves to rest. Although

celebrations of the Chinese New Year vary, the underlying message is one of peace and happiness for family members and friends.

The legislature finds that the prominence of Hawaii's Chinese population and the emphasis on promoting tourism from China warrants an official commemoration of Chinese New Year.

The purpose of this Act is to designate the Asian Lunar New Year as a week of commemoration.

SECTION 2. Chapter 8, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§8- Asian Lunar New Year Commemoration Week.** The one week period following the day of the Chinese New Year shall be known and designated as the ‘‘Asian Lunar New Year Week of Commemoration in Hawaii’’. This week is not and shall not be construed as a state holiday.’’

SECTION 3. New statutory material is underscored.<sup>1</sup>

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

(Approved May 1, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 49**

H.B. NO. 1328

A Bill for an Act Relating to Sentencing of Repeat Offenders.

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

SECTION 1. Insurance fraud is reported to cost every United States household an average of \$500 per year. In Hawaii, the cost of motor vehicle insurance fraud alone has been estimated to be over \$164 annually per household. In recognition of the impact that fraud has on the cost of motor vehicle insurance, Act 251, Session Laws of Hawaii 1997, was enacted to establish an insurance fraud investigations unit, and motor vehicle insurance fraud violations and penalties. Act 155 and Act 275, Session Laws of Hawaii 1998, were enacted the following year to clarify the penalties for the offense of motor vehicle insurance fraud and enhance and clarify the powers and purpose of the insurance fraud investigations unit to combat motor vehicle insurance fraud.

Insurance fraud also has increasingly affected costs within the health insurance industry. Industry healthcare fraud losses are estimated to be as much as fourteen per cent of the \$1,200,000,000,000 in annual national healthcare costs. This is equivalent to approximately \$36,000,000,000 to \$144,000,000,000 annually. In Hawaii, based on the conservative estimate that insurance fraud amounts to three per cent of annual Hawaii healthcare costs, health insurance fraud causes losses that exceed \$60,000,000 annually. Because insurance fraud is a growing problem in the area of health insurance, the legislature enacted health insurance fraud provisions in Act 125, Session Laws of Hawaii 2003. Similar fraud provisions are in place for workers' compensation insurance.

Nationally, many repeat offender criminals and organized crime entities are now engaging in various insurance fraud schemes as a way to generate quick and safe money to fund other criminal endeavors. More and more criminals are turning

to white collar crime such as insurance fraud and identity theft as a way of defrauding and stealing from both the government and the general public.

In Hawaii, insurance fraud is not listed as one of the class C felony crimes that is covered as one of the repeat offender offenses. Knowing that many criminals and criminal entities use insurance fraud as a way to fund more dangerous or violent crimes and that many white collar criminals see this as a crime where the punishment is minimal, action should be taken to toughen the penalties for those who engage in repeated attempts to commit insurance fraud.

The purpose of this Act is to amend the sentencing of repeat offenders to include the insurance fraud penalty provisions located in chapters 386, 431, 432, and 432D, Hawaii Revised Statutes.

SECTION 2. Section 706-606.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) Notwithstanding section 706-669 and any other law to the contrary, any person convicted of murder in the second degree, any class A felony, any class B felony, or any of the following class C felonies: section 188-23 relating to possession or use of explosives, electrofishing devices, and poisonous substances in state waters; section 386-98(d)(1) relating to fraud violations and penalties; section 431:10A-131(b)(2) relating to insurance fraud; section 431:10C-307.7(b)(2) relating to insurance fraud; section 432:1-106(b)(2) relating to insurance fraud; section 432D-18.5(b)(2) relating to insurance fraud; section 707-703 relating to negligent homicide in the second degree; section 707-711 relating to assault in the second degree; section 707-713 relating to reckless endangering in the first degree; section 707-716 relating to terroristic threatening in the first degree; section 707-721 relating to unlawful imprisonment in the first degree; section 707-732 relating to sexual assault or rape in the third degree; section 707-752 relating to promoting child abuse in the third degree; section 707-757 relating to electronic enticement of a child in the second degree; section 707-766 relating to extortion in the second degree; section 708-811 relating to burglary in the second degree; section 708-821 relating to criminal property damage in the second degree; section 708-831 relating to theft in the first degree as amended by Act 68, Session Laws of Hawaii 1981; section 708-831 relating to theft in the second degree; section 708-835.5 relating to theft of livestock; section 708-836 relating to unauthorized control of propelled vehicle; [ ]section[ ] 708-839.8 relating to identity theft in the third degree; [ ]section[ ] 708-839.55 relating to unauthorized possession of confidential personal information; section 708-852 relating to forgery in the second degree; section 708-854 relating to criminal possession of a forgery device; section 708-875 relating to trademark counterfeiting; section 710-1071 relating to intimidating a witness; section 711-1103 relating to riot; section 712-1203 relating to promoting prostitution in the second degree; section 712-1221 relating to gambling in the first degree; section 712-1224 relating to possession of gambling records in the first degree; section 712-1243 relating to promoting a dangerous drug in the third degree; section 712-1247 relating to promoting a detrimental drug in the first degree; section 134-7 relating to ownership or possession of firearms or ammunition by persons convicted of certain crimes; section 134-8 relating to ownership, etc., of prohibited weapons; section 134-9 relating to permits to carry, or who is convicted of attempting to commit murder in the second degree, any class A felony, any class B felony, or any of the class C felony offenses enumerated above and who has a prior conviction or prior convictions for the following felonies, including an attempt to commit the same: murder, murder in the first or second degree, a class A felony, a class B felony, any of the class C felony offenses enumerated above, or any felony conviction of another

jurisdiction, shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole during such period as follows:

- (a) One prior felony conviction:
  - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—ten years;
  - (ii) Where the instant conviction is for a class A felony—six years, eight months;
  - (iii) Where the instant conviction is for a class B felony—three years, four months;
  - (iv) Where the instant conviction is for a class C felony offense enumerated above—one year, eight months;
- (b) Two prior felony convictions:
  - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—twenty years;
  - (ii) Where the instant conviction is for a class A felony—thirteen years, four months;
  - (iii) Where the instant conviction is for a class B felony—six years, eight months;
  - (iv) Where the instant conviction is for a class C felony offense enumerated above—three years, four months;
- (c) Three or more prior felony convictions:
  - (i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree—thirty years;
  - (ii) Where the instant conviction is for a class A felony—twenty years;
  - (iii) Where the instant conviction is for a class B felony—ten years;
  - (iv) Where the instant conviction is for a class C felony offense enumerated above—five years.”

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 and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved May 1, 2007.)

## ACT 50

H.B. NO. 1336

A Bill for an Act Relating to Sanctions for Violations by Mortgage Brokers and Solicitors Committed Against Elders.

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

SECTION 1. Chapter 454, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§454- Additional sanctions for violations committed against elders.**

(a) Any person who, in the course of engaging in conduct that requires a license under this chapter, commits a violation of this chapter or the rules adopted pursuant

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to this chapter, or commits a violation of chapter 436B, and the violation includes conduct that is directed towards, targets, or is committed against an elder, may be fined an amount not to exceed \$10,000 for each violation in addition to any other fine or penalty.

(b) As used in this chapter, “elder” means a consumer who is sixty-two years of age or older.”

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. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved May 1, 2007.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 51

S.B. NO. 1457

A Bill for an Act Making an Emergency Appropriation for the Developmental Disabilities Division of the Department of Health.

*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 purpose of this Act is to appropriate additional funds to the department of health for the State’s medicaid title XIX programs, which include the developmental disabilities or mentally retarded home and community-based services and the medicaid state plan intermediate care facilities for the mentally retarded in the community program, to meet a critical funding emergency. The additional funds are necessary to support current clients and to reasonably admit individuals into the program to fulfill the developmental disabilities division’s obligations under the settlement agreement in *DHRC v. State*, United States District Court, Civil No. 03-00524 HG-KSC, and comply with the United States Supreme Court’s decision in *Olmstead v. L.C.*, 527 U.S. 581, 119 S. Ct. 2176 (1999), and the requirements of chapter 333F, Hawaii Revised Statutes, to support people to live in the community.

The developmental disabilities interdepartmental transfer fund or U-fund ceiling constitutes a limit on the department of health’s ability to receive federal medicaid reimbursements transferred from the department of human services back to the department of health. These funds are in turn reallocated for expenditures to make further claims for federal reimbursement. Once the department of health has exceeded the statutory limitation of the U-fund, the ability to expend the resources that it receives is impaired. Therefore, the increase in the U-fund ceiling is now critically necessary to ensure timely expenditure of the general fund emergency appropriation contained in this measure.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,980,523, or so much thereof as may be necessary, for fiscal year 2006-2007, to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. There is appropriated out of the interdepartmental transfer fund the sum of \$4,111,237, or so much thereof as may be necessary for fiscal year 2006-2007, to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. In accordance with article VII, section 9 of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 (established at \$5,357,987,705 on November 8, 2006) has already been exceeded by \$90,137,694 or 1.68 per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$4,980,523, or an additional 0.093 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

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

(Approved May 1, 2007.)

## ACT 52

H.B. NO. 1750

A Bill for an Act Relating to Public Employment.

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

SECTION 1. Section 78-1, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) All persons seeking employment with the government of the State or in the service of any county shall be citizens, nationals, or permanent resident aliens of the United States, or eligible under federal law for unrestricted employment in the United States, and shall become residents of the State [at the time of] within thirty days after beginning their [application for] employment and as a condition of eligibility for continued employment.

“Resident” means a person who is physically present in the State at the time the person claims to have established the person’s domicile in the State and shows the person’s intent is to make Hawaii the person’s [permanent] primary residence. ~~[In determining this intent, the following factors shall be considered:~~

- ~~(1) Maintenance of a domicile or permanent place of residence in the State;~~
- ~~(2) Absence of residency in another state; and~~
- ~~(3) Former residency in the State.~~

~~This subsection’s requirement for state residency shall not apply to applicants for police officer positions; provided that upon employment, the police offi-~~

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~~eer shall establish residency as a condition of continued employment as a police officer.]”~~

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

SECTION 3. This Act shall take effect on July 1, 2007.

(Approved May 1, 2007.)

## ACT 53

H.B. NO. 1018

A Bill for an Act Relating to Liquor.

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

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

“**§281- Special conditions; condominium hotel licenses.** A condominium hotel operator shall submit to the commission a copy of the information on the initial application for registration of the condominium hotel operator approved by the real estate commission pursuant to section 467-30, if the condominium hotel operator is required to be registered with the real estate commission. The condominium hotel operator shall maintain for inspection at the condominium hotel by any authorized employee of the commission a list of the units being utilized for transient lodgings from time to time as part of the condominium hotel.”

SECTION 2. Section 281-1, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

““Condominium hotel” means an establishment consisting of one or more buildings that includes:

- (1) Guest rooms that are units, as defined in section 514B-3, which are used to provide transient lodging for periods of less than thirty days under a written contract with the owner of a unit in the condominium hotel operation;
- (2) Guest rooms that are units, owned or managed by the condominium hotel operator providing transient lodging for periods of less than thirty days, which are offered for adequate pay to transient guests; and
- (3) A suitable and adequate kitchen and dining room, where meals are regularly prepared and served to guests and other customers.

A “condominium hotel” does not include a hotel that may be part of a condominium property regime established under chapter 514B, that does not have guest rooms that are separate units, as defined in section 514B-3.

“Condominium hotel operator” means any person who operates a condominium hotel, including but not limited to, a condominium hotel operator registered under section 467-30.”

2. By amending the definition of “minibar” to read:

““Minibar” means a specified area of a hotel or condominium hotel guest room where a selection of liquors in their original package are kept for sale or consumption in the hotel or condominium hotel guest room.”

## 3. By amending the definition of “premises” to read:

““Premises” or “licensed premises” means the building and property that houses the establishment for which a license has been or is proposed to be issued; provided that in the case of class 12 hotel license, “premises” includes the hotel premises; provided further that in the case of a class 15 condominium hotel license, “premises” includes units, as defined in section 514B-3, that are used to provide transient lodging for periods of less than thirty days under a written contract with the owner or owners of each unit in, and common elements for access purposes as established by the declaration of condominium property regime of, the condominium hotel; and provided further that if an establishment is in a retail shopping complex the businesses of which have formed a merchants association, “premises” means the establishment. As used in this definition, “establishment” means a single physical location where the selling of liquor takes place.”

SECTION 3. 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-]~~ license. A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell it at wholesale in original packages to any person who holds a license to resell it 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. This subsection shall not prevent the holder of a beer class manufacturer’s license under this chapter or under the law of another jurisdiction from maintaining any interest in the license or licensed premises of a beer and wine class wholesale dealer licensee under this chapter whose wholesaling is limited to beer, other than direct ownership of a beer and wine class wholesale dealer’s license, or direct ownership of a partnership share, one or more shares of stock, or similar proprietary stake in the holder of a beer and wine class wholesale dealer’s license.

(c) Class 2. ~~Restaurant [licenses-]~~ license.

- (1) A license under this class shall authorize the licensee to sell liquors specified in this subsection for consumption on the premises; provided that a restaurant licensee, with commission approval, may provide off-premises catering; provided further that the catering activity 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:

- (A) A standard bar; or
- (B) ~~[A-premises]~~ Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules.

- (2) 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;<sup>1</sup>
- (3) For each category of class 2 licenses, there shall be the following kinds:
  - (A) General (includes all liquors except alcohol);
  - (B) Beer and wine; and
  - (C) 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.~~] license. 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 license 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 in this subsection shall prevent a wholesaler from selling liquors to post exchanges, ships service stores, army or navy officers' clubs, or similar 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,~~] 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.~~] license. 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.~~] license.

- (1) A license under this class shall authorize the licensee to sell liquors 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:
  - (A) A standard bar;

- (B) [~~A-premise~~] Premises in which a person performs or entertains unclothed or in attire restricted to use by entertainers pursuant to commission rules;
- (C) [~~A-premise~~] Premises in which live entertainment or recorded music is provided; provided that facilities for dancing by the patrons may be permitted as provided by commission rules; or
- (D) [~~A-premise~~] Premises in which employees or entertainers are compensated to sit with patrons, regardless of whether the employees or entertainers are consuming nonalcoholic beverages while in the company of the patrons pursuant to commission rules.

- (2) 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.
- (3) For each category of class 5 licenses, there shall be the following kinds:
  - (A) General (includes all liquors except alcohol);
  - (B) Beer and wine; and
  - (C) Beer.

(g) Class 6. Club [~~licenses-~~] license. 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; 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 that may be consumed only on the premises.

(h) Class 7. Vessel [~~licenses-~~] license. 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 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 in which the home port is situated; 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, it shall constitute a violation of this chapter.

(i) Class 8. Transient vessel [~~licenses-~~] license. A general license may be granted to the owner of any vessel 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. Sales shall be made only for consumption by passengers and their guests on board the vessel. The license shall be issuable in each county where the sales are to be made; provided that the application for the license may be made by any agent representing the owner.

(j) Class 9. Tour or cruise vessel [~~licenses-~~] license. 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 that sales 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, unless otherwise approved by the county where the license has been issued. If the vessel has a home port in the State, the license shall be issuable in the county wherein the home port is situated; 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, it shall constitute a violation of this chapter.

(k) Class 10. [~~Special.~~] **Special license.** A special license may be granted for the sale of liquor for a period not to exceed three days on any occasion and under 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 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~~] premises where professional entertainment by persons who perform or entertain unclothed was presented on a regular and consistent basis immediately prior to June 15, 1990; or
- (2) A cabaret license 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 [~~license.~~] **license.** 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; provided that a hotel licensee, with commission approval, may provide off-premises catering; ~~provided that~~, if 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 similar service in guest rooms,<sup>2</sup> and service at private parties in areas 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 shall 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 the function will be subject to the liquor laws and to inspection by investigators.

- (o) Class 14. Brewpub ~~[licenses-]~~ license. A brewpub licensee:
- (1) Shall manufacture not more than ten 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 manufactured by the licensee in brewery-sealed packages to class 3, wholesale dealer licensees pursuant to conditions imposed by county planning and public works departments;
  - (4) May sell intoxicating liquor, purchased from a class 1, manufacturer licensee, or a class 3, wholesale dealer's licensee, 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;
  - (5) May sell malt beverages manufactured on the licensee's premises to consumers in brewery-sealed kegs and growlers for off-premises consumption; provided that for purposes of this paragraph, "growler" means a glass container, not to exceed one half-gallon, ~~[that]~~ which may be securely sealed;
  - (6) May sell malt beverages manufactured on the licensee's premises to consumers, in recyclable containers that may be provided by the licensee or by the consumer, not to exceed one gallon per container, ~~[that]~~ which are securely sealed on the licensee's premises, for off-premises consumption;
  - (7) Shall comply with all regulations pertaining to class 4 retail licensees when engaging in the retail sale of malt beverages;
  - (8) May sell malt beverages manufactured on the licensee's premises in brewery-sealed containers directly to class 2 restaurant licensees, class 3 wholesale dealer licensees, class 4 retail dealer licensees, class 5 dispensers' licensees, class 6 club licensees, class 7, 8, and 9 vessel licensees, transient vessel licensees, tour or cruise vessel licensees, class 10 special licensees, class 11 cabaret licensees, class 12 hotel licensees, ~~[and]~~ class 13 caterer licensees, and class 15 condominium hotel license, pursuant to conditions imposed by county planning and public works departments and regulations governing class 3 wholesale dealers licensees; and
  - (9) May conduct the activities described in paragraphs (1) through (8) at one location other than the licensee's premises; provided that the manufacturing takes place in Hawaii; and provided further the other location is properly licensed by the same ownership.

(p) Class 15. Condominium hotel license. A license to sell liquor in a condominium hotel shall authorize the licensee to provide entertainment and dancing on the condominium hotel premises and to sell all liquors, except alcohol, for consumption on the premises; provided that a condominium hotel licensee, with commission approval, may provide off-premises catering; provided further that the catering activity is directly related to the licensee's operation as a condominium hotel.

Procedures such as room service, self-service (no-host), minibars or similar service in apartments, and service at private parties in areas that are the property of and contiguous to the condominium hotel, are permitted with commission approval.

A condominium hotel licensee shall not sell liquor in the manner authorized by a class 4 retail dealer's license.

~~[(p)]~~ (q) 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.

~~[(q)]~~ (r) Any provision to the contrary notwithstanding, at the discretion of the county liquor commission, permission may be granted to a bona fide hotel, restaurant, or club licensed under class 2, class 6, class 11, class 12, ~~[(r)]~~ class 14, or class 15 to allow a patron to remove from the licensed premises any portion of wine that was purchased for consumption with a meal; provided that it is recorked or resealed in its original container. This subsection applies only to a valid holder of a class 2, class 6, class 11, class 12, ~~[(r)]~~ class 14, or class 15 license engaged in meal service.

~~[(r)]~~ (s) Sections 281-57 to ~~[(s)]~~ ~~281-64~~ 281-60 shall not apply to classes 7 through 10 and 13.”

SECTION 4. Section 281-39, Hawaii Revised Statutes, is amended to read as follows:

**“§281-39 Place of business; exception; solicitors’ and representatives’ permits.** (a) A license issued under this chapter shall authorize the doing of the business licensed only at the place described in the license, which shall be known as the licensed premises, except ~~[(a)]~~:

(1) In case of a removal with the prior written consent of the liquor commission indorsed on the license, or outside warehousing which may be located off the licensed premises with prior written consent of the liquor commission~~[-]; and~~

(2) That the units that are used to provide transient lodging under a class 15 license may change from time to time; provided that the condominium hotel operator shall submit quarterly to the commission the list of units being utilized as part of the condominium hotel and maintains a current list pursuant to section 281- at a condominium hotel for inspection by any authorized employee of the commission.

~~[(b)]~~ (b) Except for a condominium hotel operator under a class 15 license, no change of premises under any issued license shall be allowed unless the doing of business on the new premises is authorized in the same manner as provided by this chapter for approval of any original premises; provided that the holder of any manufacturer’s license or a wholesale dealer’s license issued by the commission of any county may, through authorized solicitors or representatives, solicit and take orders for direct shipment for liquor in permitted quantities in any other county.

(c) Any person desiring to act as the authorized solicitor or representative of a manufacturer or wholesale dealer in any county shall make application to the commission of such county in which the person proposes to act for a permit to act as such.

(d) The application shall state the name of the applicant, the applicant’s age, residence, and place of business, the name and address of the manufacturer or wholesale dealer the applicant represents and shall be accompanied by a statement from the manufacturer or wholesale dealer to the effect that the applicant has been appointed as its solicitor or representative. All sales and all orders taken for liquor by any such solicitor or representative shall be subject to the rules and regulations of the commission for the county within which the sales are made or orders taken. No ~~[(d)]~~ solicitor or representative shall be permitted to have, own, or control any liquor for sale.”

SECTION 5. Section 281-39.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The liquor commission or agency of each county may deny or restrict the issuance of a liquor license for on-site sale and consumption by the drink to any applicant whose establishment is or would be located within five hundred feet of a public or private elementary, intermediate, or high school, or public playground utilized extensively by minors, as determined by the liquor commission of each county; provided that the liquor commission or agency of each county shall deny the issuance of a liquor license if forty per cent of the:

- (1) Registered voters for the area within five hundred feet of the nearest point of the premises for which the license is asked; or
- (2) Owners and lessees of record of real estate and owners of record of shares in a cooperative apartment within five hundred feet of the nearest point of the premises for which the license is asked;

have duly filed or caused to be filed their protests against granting the license. The distance of five hundred feet shall be measured from the boundary of the school or public playground to the boundary of the applicant’s premises. Public or private beaches, and public or private day care centers located in or adjacent to commercial areas shall not be deemed schools or public playgrounds for purposes of this section. The provisions of this section shall not apply to establishments located within areas designated by the appropriate counties for resort purposes, or to hotel or condominium hotel liquor license applicants.”

SECTION 6. Section 281-57, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(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 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; provided 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 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;
- (2) In counties with a population of two 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 condominium hotel, 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 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. No promotional information shall be allowed on, or accompany the notice. Before the hearing, and within seven days of having mailed the notices, the applicant shall file with the commission an affidavit that the notices have been mailed in compliance with this subsection. In addition to the affidavit (which shall be made available within the same seven-day period with proof of having mailed the notices), the applicant shall include both a master list of one hundred per cent of addressees and addresses required by paragraphs (1), (2), and (3), and another mailing list consisting of the portion of addressees and their respective addresses who were mailed the notice purposely needed to meet the requirements of paragraphs (1), (2), and (3). The affidavit, master list, and mailing list shall be made available within seven days (of the mailing of the notice by the applicant) by the commission for public review upon request. For purposes of this section "master list" means every owner and lessee who would otherwise be required to receive notice of the public hearing according to the requirement of paragraphs (1), (2), and (3), even if they were not actually included in the two-third or three-fourths requirement (as the case may be) of paragraph (1) or (2), and every condominium project and cooperative apartment qualifying in paragraph (3). The commission shall cancel the hearing if not receiving the affidavit prior to the hearing or if discovering that the affidavit is false."

SECTION 7. (a) Any licensee holding a class 12 license on the effective date of this Act and who would otherwise come within this class of license may apply to the liquor commission in which the licensee is seeking a change in liquor license for a change to a class 15 license; provided that the licensee shall not be subject to the requirements of section 281-54 and sections 281-57 to 281-60, Hawaii Revised Statutes.

(b) If a licensee holding a class 12 license on the effective date of this Act applies for a change to a class 15 license, the respective liquor commission shall hold a public hearing upon notice, and upon the day of hearing, or any adjournment thereof, the liquor commission shall consider the application, accept all written or oral testimony for or against the application, and render its decision granting or refusing the application. If the application is denied, the class 12 license shall continue in effect in accordance with law.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>3</sup>

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

(Approved May 1, 2007.)

#### Notes

1. Prior to amendment a period appeared here. Semicolon should be underscored.
2. Comma should be underscored.
3. Edited pursuant to HRS §23G-16.5.

## ACT 54

H.B. NO. 389

A Bill for an Act Relating to Elections.

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

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§11- Candidates for public office; public service announcements; public funds.** (a) No person who is a candidate for public office shall appear in, or lend the person’s name, image, or voice to, any public service announcement or any advertisement that is produced on behalf of any state-administered program or paid for with state, county or federal revenues, from the time the candidate files nomination papers until the day after the day of:

- (1) The primary election, in the case of a candidate in a primary election who fails to be nominated to stand in a general election; or
- (2) The general election, in the case of a candidate who is nominated in a primary election and seeks election in a general election.

(b) A candidate who holds public office shall be exempt from the prohibition specified in subsection (a) if the announcement or advertisement is in anticipation of or in response to a disaster or state or national emergency; provided that the announcement or advertisement is reasonably necessary for an official function of the candidate.

(c) This section shall not be construed to prohibit a candidate from appearing in a broadcast of official state, county, or federal proceedings.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved May 1, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 55

H.B. NO. 1513

A Bill for an Act Relating to Election Offenses.

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

SECTION 1. Section 19-4, Hawaii Revised Statutes, is amended to read as follows:

**“§19-4 Penalties; disqualification for, removal from office; reports of convictions to chief election officer.** Every person found guilty of an election fraud shall be fined not less than [~~\$100~~] \$1,000 nor more than [~~\$1,000;~~] \$5,000, or imprisoned [~~at hard labor~~] not more than two years, or both. Besides the punishment, the person shall be disqualified from voting and from being elected to, holding or occupying any office, elective or appointive. If the person so convicted holds any office, either elective or appointive, at the time of the conviction, the office shall at once and without mention in the sentence or other proceeding be vacated by the conviction. The judge before whom the conviction is had shall immediately transmit

## ACT 56

to the chief election officer and to the respective county clerks the name of the person, the offense of which the person has been convicted and the sentence of the court.”

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

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

(Approved May 1, 2007.)

## ACT 56

S.B. NO. 14

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

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

SECTION 1. The purpose of this Act is to establish a candidate advisory council for the board of regents of the University of Hawaii in conformity with the amendment to article X, section 6 of the Hawaii State Constitution, ratified by the voters on November 7, 2006. This Act also:

- (1) Increases the membership of the board of regents of the University of Hawaii with a specified number of members representing different geographic areas;
- (2) Prohibits a board of regents member from serving more than two consecutive five-year terms; and
- (3) Requires the senate to consider the reconfirmation of an incumbent board member for a second term at least one hundred twenty days prior to the conclusion of the member's first term.

Additionally, the legislature renews its previously stated intent, as provided in Senate Bill No. 1256 (2005), that “the existing members of the board of regents of the University of Hawaii serve their full terms of office. As each term expires, the regent will be replaced by an appointed member screened and proposed by the candidate advisory council . . .” as provided in this Act.

SECTION 2. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§304A- Candidate advisory council for the board of regents of the University of Hawaii.** (a) There is established the candidate advisory council for the board of regents of the University of Hawaii to present to the governor pools of qualified candidates from which the members of the board of regents shall be nominated and, by and with the consent of the senate, appointed by the governor. The candidate advisory council shall establish the criteria for qualifying, screening, and presenting to the governor candidates for membership on the board of regents. The candidate advisory council shall be attached to the University of Hawaii for administrative purposes.

(b) Except as provided in subsection (c), within sixty days of convening its first meeting, the candidate advisory council shall present no fewer than two and no more than four qualified candidates to the governor for each vacant seat on the board of regents that has arisen due to resignation, death, or removal by the governor; provided that for all subsequent presentations to the governor, the candidate advi-

sory council shall present no fewer than two and no more than four candidates for each seat on the board of regents to the governor within:

- (1) Thirty days of a vacancy that arises by resignation, death, or removal by the governor; or
- (2) One hundred twenty days prior to the expiration of a term.

(c) When there are multiple seats vacant within the same county or within the at-large membership, the candidate advisory council shall present candidates for seats on the board of regents to the governor as follows:

- (1) For two seats from the same county or two at-large seats, no fewer than four and no more than six candidates;
- (2) For three seats from the same county, no fewer than five and no more than eight candidates; and
- (3) For more than three seats, the candidate advisory council shall determine appropriate minimum numbers of candidates, which shall provide for at least three candidates for the final seat, and maximum numbers of candidates.

(d) In making its presentations, the candidate advisory council shall:

- (1) Develop a statement that includes the selection criteria to be applied and a description of the responsibilities and duties of a member of the board of regents and distribute this statement to potential candidates;
- (2) Screen and qualify candidates for each position on the board of regents based on their background, experience, and potential for discharging the responsibilities of a member of the board of regents;
- (3) Publicly advertise pending vacancies and actively solicit and accept applications from potential candidates;
- (4) Develop and implement a fair, independent, and nonpartisan procedure for selecting candidates to serve on the board of regents; and
- (5) Require each candidate to disclose any existing or anticipated contracts with the University of Hawaii or any existing or anticipated financial transactions with the University of Hawaii.

Upon submission to the governor, presentations of the candidate advisory council shall be made available to the public by the University of Hawaii.

(e) For each board seat to be filled, the governor shall select one nominee from among the candidate advisory council's presentations.

(f) The candidate advisory council shall consist of seven members to be appointed without regard to section 26-34 as follows:

- (1) One member shall be appointed by the president of the senate;
- (2) One member shall be appointed by the speaker of the house of representatives;
- (3) One member shall be appointed by the governor;
- (4) One member shall be appointed by one of the co-chairs of the All Campus Council of Faculty Senate Chairs of the University of Hawaii;
- (5) One member shall be appointed by the chairperson of the Executive Council of the University of Hawaii Student Caucus;
- (6) One member shall be appointed by the chairperson of the Association of Emeritus Regents; and
- (7) One member shall be appointed by the president of the University of Hawaii Alumni Association;

provided that members appointed under paragraphs (4) to (7) shall be selected from the general public and may include members of the constituencies represented; provided further that each appointee satisfies the requirements for appointment provided in this subsection, except that individuals who are or have served as members of the executive councils or boards for the organizations under paragraphs (4) and (5) within the last five years immediately preceding the establishment or a

vacancy on the candidate advisory council for which the persons may be qualified to fill shall not be eligible to serve as members of the candidate advisory council.

The candidate advisory council shall be selected in a wholly nonpartisan manner. If any member has not been appointed within one hundred eighty days of the effective date of this Act, the sitting members on the candidate advisory council shall make an interim appointment to fill the vacant seat. The interim appointee shall satisfy the requirements for appointment provided in this subsection and shall serve until the time when the appropriate appointing authority makes an appointment for the vacant seat as provided in this subsection. Appointees to the candidate advisory council shall have a general understanding of the purposes of higher education, the mission of the University of Hawaii system, and the responsibilities of the board of regents. Appointees shall be individuals who are widely viewed as having placed the broad public interest ahead of special interests, having achieved a high level of prominence in their respective professions, and being respected members of the community.

(g) Members of the candidate advisory council shall serve four-year terms; provided that the three members initially appointed by the governor, the president of the senate, and the speaker of the house of representatives shall serve for terms of two years; provided further that terms for appointments of the initial members of the candidate advisory council shall be deemed to begin on July 1, 2007, regardless of the actual date of appointment.

(h) If a vacancy occurs, a successor shall be appointed in the same manner and subject to the same qualifications as the person's predecessor. The person appointed to fill a vacancy shall serve for the remainder of the term of the person's predecessor.

(i) The candidate advisory council shall operate in a wholly nonpartisan manner. No individual, while a member of the candidate advisory council, shall run for or hold any elected office under the United States or the State or any of its political subdivisions.

(j) The candidate advisory council shall convene its first meeting on or after thirty-one days from the effective date of this Act; provided that, if thirty days after the effective date of this Act, all the members to which the candidate advisory council is entitled have not yet been appointed, the candidate advisory council shall convene its first meeting upon the appointment of a majority of its members. The members of the candidate advisory council shall choose a chairperson from among themselves. A majority of all the members to which the candidate advisory council is entitled shall constitute a quorum to conduct business. The concurrence of a majority of all the members to which the candidate advisory council is entitled shall be necessary to make any action of the candidate advisory council valid. The candidate advisory council shall meet annually and at other times as necessary. The candidate advisory council shall be exempt from part I of chapter 92.

(k) Members of the candidate advisory council shall serve without compensation but shall be reimbursed for expenses, including travel, board, and lodging expenses, necessary for the performance of their duties."

SECTION 3. Section 26-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The University of Hawaii shall be headed by an executive board to be known as the board of regents.

The board shall consist of ~~[twelve]~~ fifteen members. ~~[No more than six of the members shall be members of the same political party and at least part of the membership of the board shall represent geographic subdivisions of the State.]~~ At least one member shall be a University of Hawaii student at the time of the initial

appointment. This member may be reappointed for one additional term even though the member may no longer be a student at the time of reappointment. The governor shall reduce the terms of those initially appointed to each seat on the board of regents to provide, as far as practicable, for the expiration of three terms each year; provided that the term of the student member shall not be reduced.

At least twelve members, except for the student member, shall represent the specified geographic areas as follows:

- (1) Two members from the county of Hawaii;
- (2) Two members from the county of Maui;
- (3) One member from the county of Kauai; and
- (4) Seven members from the city and county of Honolulu.

The board shall have the power, in accordance with the Constitution of the State and with law, to formulate policy[;] and to exercise control over the university through its executive officer, the president of the university. The board shall have exclusive jurisdiction over the internal organization and management of the university.”

SECTION 4. Section 304A-104, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The affairs of the university shall be under the general management and control of the board of regents consisting of [~~twelve~~] fifteen members who shall be appointed and may be removed by the governor. Except as otherwise provided by law, state officers shall be eligible for appointment and membership. The term of each member shall be [~~for four years;~~] five years, except as provided for the initial appointment in section 26-11; provided that the term of the student member shall be [for] two years. [Except as otherwise provided by statute, state officers shall be eligible to appointment and membership.] Every member may serve beyond the expiration date of the member’s term of appointment until the member’s successor has been appointed [~~and has qualified.]~~ by the governor and confirmed by the senate in accordance with article X, section 6 of the state constitution. Members shall serve no more than two consecutive five-year terms; provided that the members who are initially appointed to terms of two years or less pursuant to section 26-11(a) may be reappointed to two ensuing five-year terms. If a member is to be appointed to a second term of five years, the senate shall consider the question of whether to reconfirm the member at least one hundred twenty days prior to the conclusion of a member’s first five-year term; provided that if the senate is not in session within one hundred twenty days prior to the conclusion of the member’s first five-year term, the member shall continue to serve until the senate convenes for the next regular session or the next special session for which the senate is authorized to consider the question of reconfirmation.

(b) At its first meeting after June 30, the board of regents shall elect a chairperson and vice-chairperson, who shall serve until adjournment of its first meeting after June 30 of the next year or thereafter until their successors are appointed. The board shall appoint a secretary, who shall not be a member of the board. The president of the university shall act as executive officer of the board. From the effective date of this Act and until such time that the board of regents has at least fourteen members, seven members of the board of regents shall constitute a quorum to conduct business, and the concurrence of at least seven members of the board of regents shall be necessary to make any action of the board of regents valid; provided that upon filling at least fourteen of the fifteen board of regents seats required under subsection (a), a majority of the board of regents shall constitute a quorum to conduct business, and the concurrence of a majority of all the members to which the board of regents is entitled shall be necessary to make any action of the

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board of regents valid. The board shall meet [~~not less often than~~] at least ten times annually and, from time to time, may meet in each of the counties of Hawaii, Maui, and Kauai.”

SECTION 5. Notwithstanding the requirements of section 304A-104, Hawaii Revised Statutes, as it read prior to the effective date of this Act, the terms of those members of the board of regents of the University of Hawaii that are to expire on or before June 30, 2007, shall be extended until the earlier of June 30, 2008, or until such time as new members of the board of regents have been appointed pursuant to the appointment process established pursuant to this Act, at which time their terms shall expire; provided that the current members shall serve their full terms.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

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

(Vetoed by Governor and veto overridden by Legislature on May 1, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

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S.B. NO. 1063

A Bill for an Act Relating to Legislative Vacancies.

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

SECTION 1. The legislature finds that the current method of filling vacancies in the state legislature and the United States Senate may result in an appointment that compromises the integrity of the election process or that provides ineffective representation of the district’s interests. Currently, the governor appoints an individual to fill an unexpired legislative vacancy, subject only to age and residency requirements for the appointee, and membership of the appointee, at the time of appointment, in the political party of the prior incumbent.

To guarantee fairness in filling legislative vacancies, the appointment process must:

- (1) Be free of political gamesmanship or controversy;
- (2) Ensure the integrity of the legislative process; and
- (3) Provide for effective representation for the residents of the legislative district of the prior incumbent.

It is understandable that a governor may reasonably want to appoint an individual whose views on key issues are “in alignment with” the governor’s positions, presumably a more difficult task when the prior incumbent was a member of a different political party than the governor. However, the present appointment process allows the governor to essentially disregard the interests of the prior incumbent’s constituents and appoint an individual whose primary qualification seems to be sharing similar political opinions on key issues with the governor. An appointment based solely upon political considerations is viewed with skepticism, may seriously damage the public’s trust and confidence in the legislative process, and casts an “aura of mistrust” around the appointee. The appointee becomes an ineffective advocate for constituent interests and is likely to be unproductive in the legislature. Skepticism and mistrust are even stronger when a governor is offered

and rejects a list of potential appointees deemed qualified by the political party of the prior incumbent.

The legislature further finds that the current method of filling legislative vacancies must be amended to preserve the integrity of the election process and to assure the public in general and residents of the prior incumbent's district in particular that appointments to fill legislative vacancies are not based upon political considerations or self-interest. Because state law requires the appointee to be from the same party as the prior legislator, it is reasonable and logical to direct the appropriate political party to submit to the governor a list of individuals whom the appropriate political party deems qualified to fill the vacancy and require the governor to choose the appointee from the list. The political party of the prior incumbent has a responsibility to the residents of the district to provide the governor with a list of qualified candidates who will be effective in serving the district.

In addition, the legislature finds that requiring the governor to make a timely choice from the list submitted by the appropriate political party would eliminate unnecessary delay in filling the vacancy and would ensure that residents of the prior incumbent's district are not without representation during critical legislative proceedings.

The legislature believes that requiring the political party of the prior incumbent to provide the governor with a list of qualified nominees from which to choose would not unreasonably restrict the pool of qualified candidates for the vacancy. Rather, such a process would eliminate skepticism and mistrust and increase public trust and confidence in the appurtenant process.

The purpose of this Act is to establish a process to fill legislative vacancies that is fair and timely and ensures that the legislative district of the prior incumbent is represented by an individual who is qualified to serve the interests of that district. Specifically, this Act requires the political party of a prior incumbent to submit to the governor a list of qualified candidates from which the governor is required to choose an appointee to fill the unexpired term of a legislative vacancy.

SECTION 2. Section 17-1, Hawaii Revised Statutes, is amended to read as follows:

**“§17-1 United States senator.** When a vacancy occurs in the office of United States senator, the vacancy shall be filled for the unexpired term at the following state general election<sup>[5]</sup>; provided that the vacancy occurs not later than 4:30 p.m. on the sixtieth day prior to the primary for nominating candidates to be voted for at the election; otherwise at the state general election next following. The chief election officer shall issue a proclamation designating the election for filling the vacancy. Pending the election, the governor shall make a temporary appointment to fill the vacancy ~~and the~~ by selecting a person from a list of three prospective appointees submitted by the same political party as the prior incumbent. The ~~person so appointed~~ appointee shall serve until the election and qualification of the person duly elected to fill the vacancy and shall be, at the time of appointment, and shall have been, for at least six months immediately prior to the appointment, a ~~registered~~ member of the same political party as the ~~senator causing the vacancy.~~ prior incumbent. The appointee shall be a resident of the state. If the prior incumbent was not a member of any political party, the governor shall appoint a person who is not and has not been, for at least six months immediately prior to the appointment, a member of any political party. All candidates for the unexpired term shall be nominated and elected in accordance with this title.”

SECTION 3. Section 17-3, Hawaii Revised Statutes, is amended to read as follows:

“§17-3 State senator. (a) Whenever any vacancy in the membership of the state senate occurs, the term of which ends at the next succeeding general election[; the]:

- (1) The governor shall make an appointment within sixty calendar days following the first day of vacancy to fill the vacancy for the unexpired term [and the appointee shall be of] by selecting a person from a list of three prospective appointees submitted by the same political party [or nonpartisanship] as the [person the appointee succeeds.] prior incumbent. The appointee shall be at the time of appointment, and for at least six months immediately prior to the appointment, a member of the political party. The appointee shall, at the time of appointment, be a resident of the same senate district as the prior incumbent. The political party shall submit the list of prospective appointees to the governor within thirty calendar days following the first day of vacancy; and
- (2) If the prior incumbent was not a member of any political party, the governor shall, within sixty calendar days following the first day of vacancy, appoint a person who is at the time of appointment a resident of the same senate district as the prior incumbent and who is not, and has not been for at least six months prior to the appointment, a member of any political party.

(b) In the case of a vacancy, the term of which does not end at the next succeeding general election:

- (1) If it occurs not later than on the tenth day prior to the close of filing for the next succeeding primary election, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall be nominated and elected in accordance with this title. Pending the election, the governor shall make a temporary appointment to fill the vacancy, and the person so appointed shall serve until the election of the person duly elected to fill the vacancy. The [appointee shall be of] governor shall make the appointment from a list of three prospective appointees submitted by the same political party [or nonpartisanship] as the [person the appointee succeeds.] prior incumbent. The appointee shall be, at the time of the appointment, and shall have been, for at least six months immediately prior to the appointment, a member of the political party. The appointee shall, at the time of appointment, be a resident of the same senate district as the prior incumbent. If the prior incumbent was not a member of any political party, the governor shall appoint a person who is at the time of appointment a resident of the same senate district as the prior incumbent and is not and has not been, for at least six months immediately prior to the appointment, a member of any political party;
- (2) If it occurs later than on the tenth day prior to the close of filing for the next succeeding primary election but not later than on the sixtieth day prior to the next succeeding primary election, or if there are no qualified candidates for any party or nonpartisan candidates qualified for the primary election ballot, nominations for the unexpired term may be filed not later than 4:30 p.m. on the fiftieth day prior to the next succeeding primary election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person [sø] appointed shall serve until the election of the person duly elected to fill the vacancy. The [appointee shall be of]

governor shall make the appointment from a list of three prospective appointees submitted by the same political party [or nonpartisanship] as the [person the appointee succeeds.] prior incumbent. The appointee shall be, at the time of the appointment, and shall have been, for at least six months immediately prior to the appointment, a member of the political party. The appointee shall, at the time of appointment, be a resident of the same senate district as the prior incumbent. If the prior incumbent was not a member of any political party, the governor shall appoint a person who is at the time of appointment a resident of the same senate district as the prior incumbent and is not and has not been, for at least six months immediately prior to the appointment, a member of any political party;

- (3) If it occurs after the sixtieth day prior to the next succeeding primary but not later than on the fiftieth day prior to the next succeeding general election, or if there are no qualified candidates for any party or nonpartisan candidates in the primary, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. Party candidates for the unexpired senate term shall be nominated by the county committees of the parties not later than 4:30 p.m. on the fortieth day prior to the general election; nonpartisan candidates may file nomination papers for the unexpired term not later than 4:30 p.m. on the fortieth day prior to the general election with the nonpartisan candidate who is to be nominated to be decided by lot, under the supervision of the chief election officer. The candidates for the unexpired term shall be elected in accordance with this title. Pending the election, the governor shall make a temporary appointment to fill the vacancy, and the person [sø] appointed shall serve until the election of the person duly elected to fill [such] the vacancy. The [appointee shall be of] governor shall make the appointment from a list of three prospective appointees submitted by the same political party [or nonpartisanship] as the [person the appointee succeeds.] prior incumbent. The appointee shall be, at the time of the appointment, and shall have been, for at least six months immediately prior to the appointment, a member of the political party. The appointee shall, at the time of appointment, be a resident of the same senate district as the prior incumbent. If the prior incumbent was not a member of any political party, the governor shall appoint a person who is at the time of appointment a resident of the same senate district as the prior incumbent and is not and has not been, for at least six months immediately prior to the appointment, a member of any political party;
- (4) If it occurs after the fiftieth day prior to the next succeeding general election or if no candidates are nominated, the governor shall make an appointment to fill the vacancy for the unexpired term [and the appointee shall be of] by selecting a person from a list of three prospective appointees submitted by the same political party [or nonpartisanship] as the [person the appointee succeeds.] prior incumbent. The appointee shall be, at the time of the appointment, and shall have been, for at least six months immediately prior to the appointment, a member of the political party. The appointee shall, at the time of appointment, be a resident of the same senate district as the prior incumbent. If the prior incumbent was not a member of any political party, the governor shall appoint a person who is at the time of appointment a resident of the same senate district as the prior incumbent and is not and has not been,

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for at least six months immediately prior to the appointment, a member of any political party.”

SECTION 4. Section 17-4, Hawaii Revised Statutes, is amended to read as follows:

“**§17-4 State representatives.** (a) Whenever any vacancy in the membership of the state house of representatives occurs, the governor shall make an appointment within sixty calendar days following the first day of vacancy to fill the vacancy for the unexpired term ~~[and the appointee shall be of]~~ by selecting a person from a list of three prospective appointees submitted by the same political party [or nonpartisanship] as the [person the appointee succeeds.] prior incumbent. The appointee shall be, at the time of appointment, and shall have been, for at least six months immediately prior to the appointment, a member of the political party. The appointee shall, at the time of appointment, be a resident of the same state representative district as the prior incumbent. The political party shall submit the list of prospective appointees to the governor within thirty calendar days following the first day of vacancy.

(b) If the prior incumbent was not a member of any political party, the governor, within sixty calendar days following the first day of vacancy, shall appoint a person who is at the time of appointment a resident of the same state representative district as the prior incumbent and is not and has not been, for at least six months immediately prior to the appointment, a member of any political party.”

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

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

(Vetoed by Governor and veto overridden by Legislature on May 1, 2007.)

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S.B. NO. 1642

A Bill for an Act Relating to Labor.

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

SECTION 1. Section 89-9, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (d) to read:

“(d) Excluded from the subjects of negotiations are matters of classification, reclassification, benefits of but not contributions to the Hawaii employer-union health benefits trust fund or a voluntary employees’ beneficiary association trust; recruitment; examination; initial pricing; and retirement benefits except as provided in section 88-8(h). The employer and the exclusive representative shall not agree to any proposal that would be inconsistent with the merit principle or the principle of equal pay for equal work pursuant to section 76-1 or that would interfere with the rights and obligations of a public employer to:

- (1) Direct employees;
- (2) Determine qualifications, standards for work, and the nature and contents of examinations;
- (3) Hire, promote, transfer, assign, and retain employees in positions;

- (4) Suspend, demote, discharge, or take other disciplinary action against employees for proper cause;
- (5) Relieve an employee from duties because of lack of work or other legitimate reason;
- (6) Maintain efficiency and productivity, including maximizing the use of advanced technology, in government operations;
- (7) Determine methods, means, and personnel by which the employer's operations are to be conducted; and
- (8) Take such actions as may be necessary to carry out the missions of the employer in cases of emergencies.

~~[The employer and the exclusive representative may negotiate procedures governing the promotion and transfer of employees to positions within a bargaining unit; the suspension, demotion, discharge, or other disciplinary actions taken against employees within the bargaining unit; and the layoff of employees within the bargaining unit. Violations of the procedures so negotiated may be subject to the grievance procedure in the collective bargaining agreement.]~~ This subsection shall not be used to invalidate provisions of collective bargaining agreements in effect on and after June 30, 2007, and shall not preclude negotiations over the procedures and criteria on promotions, transfers, assignments, demotions, layoffs, suspensions, terminations, discharges, or other disciplinary actions as a permissive subject of bargaining during collective bargaining negotiations or negotiations over a memorandum of agreement, memorandum of understanding, or other supplemental agreement.

Violations of the procedures and criteria so negotiated may be subject to the grievance procedure in the collective bargaining agreement."

2. By amending subsection (f) to read:

"(f) The repricing of classes within an appropriate bargaining unit may be negotiated as follows:

- (1) At the request of the exclusive representative and at times allowed under the collective bargaining agreement, the employer shall negotiate the repricing of classes within the bargaining unit. The negotiated repricing actions that constitute cost items shall be subject to the requirements in section 89-10[.]; and
- (2) If repricing has not been negotiated under paragraph (1), the employer of each jurisdiction shall ensure establishment of procedures to periodically review, at least once in five years, unless otherwise agreed to by the parties, the repricing of classes within the bargaining unit. The repricing of classes based on the results of the periodic review shall be at the discretion of the employer. Any appropriations required to implement the repricing actions that are made at the employer's discretion shall not be construed as cost items."

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

SECTION 3. This Act shall take effect on July 1, 2007; provided that the amendments made to section 89-9(d), Hawaii Revised Statutes, by this Act shall not be repealed when that section is re-enacted on July 1, 2008, by section 8 of Act 245, Session Laws of Hawaii, 2005.

(Vetoed by Governor and veto overridden by Legislature on May 1, 2007.)

A Bill for an Act Relating to Historic Preservation.

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

SECTION 1. Section 6E-38.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§6E-38.5]]~~ **Kohala Historic<sup>1</sup> Sites State Monument.** (a) There shall be a Kohala Historical Sites State Monument as an historical site on the island of Hawaii ~~[which]~~ that shall include a cluster of historical sites, including ~~[, but not limited to,]~~ the Mo‘okini Heiau, the Kamehameha birthsite, the Kukuipahu Heiau, and, upon acquisition by the State, the Mahukona historical sites. The monument shall be administered by the department of land and natural resources and shall consist of lands essential to the unimpaired preservation of the visual, cultural, and historical aspects of the Mo‘okini Luakini, Kamehameha birthsite, Kukuipahu Heiau, and Mahukona historical sites. The monument shall be for educational and cultural purposes and there shall be public access for enjoyment of the sites ~~[which]~~ that are included within the monument.

The real property to be included within the monument shall include:

- (1) Mo‘okini Luakini, Kamehameha birthsite, and Kukuipahu Heiau owned by the State;
- (2) Historical sites at Mahukona; and ~~[sufficient]~~
- (3) Sufficient additional land surrounding all of the monument sites to preserve and protect them with adequate buffers and provide public access, including but not limited to those lands running along the coast between Huinamaka and Kalaelimukoko and those lands mauka of the Mo‘okini Heiau encompassing the area formerly used for the housing of the Mo‘okini priests and family gravesites, to be acquired by the State through gifts or land exchanges and to be designated by the board of land and natural resources as part of the monument upon acquisition.

(b) Prior to any alterations or improvements, not including routine maintenance to the monument, including the Mo‘okini Heiau, the department of land and natural resources shall consult with the kahuna nui of the Mo‘okini Heiau regarding the proposed alterations or improvements.

(c) Prior to any additional organized profit-making venture involving the monument, including the Mo‘okini Heiau, the entity proposing the venture shall consult with the kahuna nui of the Mo‘okini Heiau regarding the proposed venture.”

SECTION 2. This Act shall not apply to any act taken by the department of land and natural resources prior to its effective date.

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

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

(Vetoed by Governor and veto overridden by Legislature on May 1, 2007.)

**Note**

1. Prior to amendment “Historical” appeared here.

## ACT 60

H.B. NO. 10

A Bill for an Act Relating to Prescription Drugs.

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

SECTION 1. Section 346-314, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A drug manufacturer or labeler that sells prescription drugs in the State [may] shall enter into a rebate agreement with the department for this purpose. The rebate agreement shall require the manufacturer or labeler to make rebate payments to the department each calendar quarter or according to a schedule established by the department.”

SECTION 2. Section 346-314, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) With respect to rebates effective July 1, [2005,] 2007, the administrator shall use the administrator’s best efforts to obtain a rebate amount equal to or greater than the amount of any discount, rebate, or price reduction for prescription drugs provided to the federal government.”

SECTION 3. Section 346-315, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department or administrator [may also] shall provide to health care providers information about the relative cost of drugs produced by manufacturers that enter into rebate agreements compared to the cost of drugs produced by those that do not enter into rebate agreements. The department shall adopt rules under chapter 91 creating procedures for the implementation of this section.”

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

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

(Vetoed by Governor and veto overridden by Legislature on May 3, 2007.)

## ACT 61

H.B. NO. 861

A Bill for an Act Relating to Public Works.

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

SECTION 1. Chapter 39A, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§39A- **Public work project; issuance of special purpose revenue bonds; report to department of labor and industrial relations required.** Any issuance of special purpose revenue bonds pursuant to this chapter for a public work project that is subject to chapter 104, but not directly caused by a governmental contracting agency, shall be promptly reported by the director of finance to the department of labor and industrial relations so that the department of labor and industrial relations may expeditiously carry out its duties under chapter 104. The

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report shall be in a form and contain such information as the director of labor and industrial relations may prescribe.”

SECTION 2. Section 104-2, Hawaii Revised Statutes, is amended to read as follows:

**“§104-2 Applicability; wages, hours, and other requirements.** (a) This chapter shall apply to every contract in excess of \$2,000 for construction of a public work project to which a governmental contracting agency is a party; provided that this chapter shall not apply to experimental and demonstration housing developed pursuant to section 46-15 or housing developed pursuant to chapter 201G or 201H if the cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.

For the purposes of this subsection:

“Contract” includes but is not limited to any agreement, purchase order, or voucher in excess of \$2,000 for construction of a public work project.

“Governmental contracting agency” includes any person or entity that causes either directly or indirectly the building or development of a public work.

“Party” includes eligible bidders for and eligible developers of any public work and any housing under chapter 201G[;] or 201H; provided that this subsection shall not apply to any housing developed under section 46-15 or chapter 201G or 201H if the entire cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.

“Public work” means any project, including development of any housing pursuant to section 46-15 or chapter 201G<sup>1</sup> or 201H and development, construction, renovation, and maintenance related to refurbishment of any real or personal property, where the funds or resources required to undertake the project are to any extent derived either directly or indirectly from public revenues of the State or any county, or from the sale of securities or bonds whose interest or dividends are exempt from state or federal taxes.

(b) Every laborer and mechanic performing work on the job site for the construction of any public work project shall be paid no less than prevailing wages; provided that:

(1) The prevailing wages shall be established by the director as the sum of the basic hourly rate and the cost to an employer of providing a laborer or mechanic with fringe benefits. In making prevailing wage determinations, the following shall apply:

(A) The director shall make separate findings of:

(i) The basic hourly rate; and

(ii) The rate of contribution or cost of fringe benefits paid by the employer when the payment of the fringe benefits by the employer constitutes a prevailing practice. The cost of fringe benefits shall be reflected in the wage rate scheduled as an hourly rate; and

(B) The rates of wages which the director shall regard as prevailing in each corresponding classification of laborers and mechanics shall be the rate of wages paid to the greatest number of those employed in the [State,] state, the modal rate, in the corresponding classes of laborers or mechanics on projects that are similar to the contract work;

(2) The prevailing wages shall be not less than the wages payable under federal law to corresponding classes of laborers and mechanics employed on public works projects in the [State] state that are prosecuted

under contract or agreement with the government of the United States; and

- (3) Notwithstanding the provisions of the original contract, the prevailing wages shall be periodically adjusted during the performance of the contract in an amount equal to the change in the prevailing wage as periodically determined by the director.

(c) No laborer or mechanic employed on the job site of any public work of the State or any political subdivision thereof shall be permitted or required to work on Saturday, Sunday, or a legal holiday of the State or in excess of eight hours on any other day unless the laborer or mechanic receives overtime compensation for all hours worked on Saturday, Sunday, and a legal holiday of the State or in excess of eight hours on any other day. For purposes of determining overtime compensation under this subsection, the basic hourly rate of any laborer or mechanic shall not be less than the basic hourly rate determined by the director to be the prevailing basic hourly rate for corresponding classes of laborers and mechanics on projects of similar character in the State.

(d) The contractor or the contractor's subcontractor shall pay all mechanics and laborers employed on the job site, unconditionally and not less often than once a week, and without deduction or rebate on any account, except as allowed by law, the full amounts of their wages including overtime, accrued to not more than five working days prior to the time of payment, at wage rates not less than those deemed to be prevailing, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics. The rates of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the job site, and a copy of the rates of wages required to be posted shall be given to each laborer and mechanic employed under the contract by the contractor at the time each laborer and mechanic is employed, except that where there is a collective bargaining agreement the contractor does not have to provide the contractor's employees the wage rate schedules.

(e) The governmental contracting agency may withhold from the contractor so much of the accrued payments as the governmental contracting agency may consider necessary to pay to the laborers and mechanics employed by the contractor or any subcontractor on the job site the difference between the prevailing wages and the wages received and not refunded by the laborers and mechanics.

(f) Every contract in excess of \$2,000 for construction of a public work project and the specifications for such contract shall include provisions that set forth the requirements of subsections (a) to (e); provided that failure by the contracting agency to include those provisions in the contract or specifications shall not be a defense of the contractor or subcontractor for noncompliance with the requirements of this chapter.

(g) For any public work project that is subject to this chapter but not directly caused by a governmental contracting agency, the director shall be responsible for enforcement of this chapter, including the collection and maintenance of certified copies of all payrolls that are subject to this chapter. The director shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section.

(h) When the department of budget and finance enters a project agreement with a project party, as those terms are defined in chapter 39A, to finance or refinance a project with the proceeds of special purpose revenue bonds, and such project party has entered into a collective bargaining agreement with a bona fide labor union governing the project party's workforce, the terms of that collective bargaining agreement and associated provisions shall be deemed the prevailing wages and terms serving as the basis of compliance with this section for work on the project by the project party's workforce, provided, however, that this subsection does not affect the director's enforcement powers contained in subsection (g)."

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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 and stricken. New statutory material is underscored.<sup>2</sup>

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

(Vetoed by Governor and veto overridden by Legislature on May 3, 2007.)

### Notes

1. Prior to amendment “,” appeared here.
2. Edited pursuant to HRS §23G-16.5.

## ACT 62

H.B. NO. 863

A Bill for an Act Relating to Public Work Projects.

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

SECTION 1. Chapter 104, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§104- Public work requirements; private construction contracts.**

(a) Section 104-2 notwithstanding, for purposes of this chapter, public work shall also include a construction contract between private persons if more than fifty per cent of the assignable square feet of a project is leased or assigned for use by the State, any county, or any agency of the State or any county, whether or not the property is privately owned, and:

- (1) The lease or other agreement is entered into prior to the construction contract becoming effective; or
- (2) Construction work is performed according to a plan, specifications, or criteria established by the State, any county, or any agency of the State or any county.

(b) Prior to the start of construction on a project, the construction project owner shall sign a lease or other agreement with the governmental leasing agency or the governmental agency accepting the construction project for its use to certify the construction project owner's compliance with this chapter, including payment of prevailing wages.

(c) Copies of the lease or other agreement under subsection (b) shall be filed with the department and the department of accounting and general services. The construction project owner shall submit weekly certified payrolls to the governmental leasing agency or the governmental agency accepting the construction project for its use, which shall be the governmental contracting agency for the construction project.”

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. New statutory material is underscored.<sup>1</sup>

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

(Vetoed by Governor and veto overridden by Legislature on May 3, 2007.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 63

H.B. NO. 1672

A Bill for an Act Relating to Legislative Service Agencies.

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

SECTION 1. Section 23-8, Hawaii Revised Statutes, is amended to read as follows:

**“§23-8 Assistance and staff.** (a) In the performance of the auditor’s duties, the auditor may employ the services of one or more certified public accountants or accounting firms, and other assistants and clerical workers as may be necessary; provided the cost thereof shall not exceed the sums as may be available out of the appropriation provided by law for the conduct of the auditor’s office; provided further that the accountants, firms, and assistants are entirely independent of the departments, offices, and agencies of the State and its political subdivisions whose affairs are subject to audit by the auditor.

(b) All employees shall be hired by the auditor subject to the approval of the president of the senate and the speaker of the house of representatives and shall serve at the auditor’s pleasure; provided that in the establishment of the salary of each employee, the auditor shall consult with the department of human resources development and shall follow as closely as possible the recommendations of the department; provided further that effective July 1, [2005,] 2007, the salary of the first assistant or first deputy shall be not more than [eighty-seven] ninety-two per cent of the salary of the auditor.

(c) The auditor and the auditor’s full-time staff shall be entitled to participate in any employee benefit program privileges.”

SECTION 2. Section 23G-2, Hawaii Revised Statutes, is amended to read as follows:

**“§23G-2 Assistant; staff.** (a) The director shall appoint a first assistant and other officers and employees as may be necessary to carry out the functions of the bureau. All employees, including the first assistant, shall be hired by the director and shall serve at the director’s pleasure.

(b) In determining the salary of the employees of the bureau, the director shall consult with the department of human resources development; provided that, effective July 1, [2005,] 2007, the salary of the first assistant shall be not more than [eighty-seven] ninety-two per cent of the salary of the director.

(c) The director and the director’s full-time staff shall be entitled to participate in any employee benefit program plan or privilege.”

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

**“§96-3 Assistance, staff, delegation, funding.** (a) The ombudsman shall appoint a first assistant and other officers and employees as may be necessary to

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carry out this chapter. All employees, including the first assistant, shall be hired by the ombudsman and shall serve at the ombudsman's pleasure.

(b) In determining the salary of each employee, the ombudsman shall consult with the department of human resources development and shall follow as closely as possible the recommendations of the department. Effective July 1, [2005,] 2007, the first assistant's salary shall be not more than [~~eighty-seven~~] ninety-two per cent of the salary of the ombudsman.

(c) The ombudsman and the ombudsman's full-time staff shall be entitled to participate in any employee benefit plan.

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

(e) The funds for the support of the office of the ombudsman shall be provided for in the act providing for the expenses of the legislature.'

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

SECTION 5. This Act shall take effect on July 1, 2007.

(Vetoed by Governor and veto overridden by Legislature on May 3, 2007.)

## ACT 64

S.B. NO. 1947

A Bill for an Act Making an Emergency Appropriation for the Deposit Beverage Container Program.

*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. The purpose of this Act is to provide sufficient moneys to meet the increased expenses of the deposit beverage container program by making an emergency appropriation to increase the spending ceiling of the deposit beverage container deposit special fund by \$10,000,000, from \$52,255,620 to \$62,255,620, for fiscal year 2006-2007.

This fiscal year, expenses will exceed the appropriation ceiling because the number of deposit beverage containers actually sold (approximately 960,000,000) will greatly exceed estimates of two years ago (approximately 800,000,000). Increased container numbers plus the current redemption rate of about sixty-eight per cent results in more deposits to refund and more redemption center handling fees for the department to pay; refunds and handling fees will easily exceed \$58,000,000. There are also increased administrative expenses, due in part to more staff and miscellaneous expenses.

The special fund has enough moneys to pay the emergency appropriation.

SECTION 3. There is appropriated out of the deposit beverage container deposit special fund the sum of \$10,000,000, or so much thereof as may be necessary for fiscal year 2006-2007, for the purpose of reimbursing deposit beverage container refund values, for paying handling fees to redemption centers, and for operating costs of the fund for deposit beverage container activities described.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

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

(Approved May 9, 2007.)

## ACT 65

H.B. NO. 1372

A Bill for an Act Making an Emergency Appropriation to the Department of Health for the Emergency Medical Services and Injury Prevention System Branch.

*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. Although funds were appropriated to the department of health for emergency medical services for the fiscal period beginning July 1, 2006, and ending June 30, 2007, a critical funding emergency now exists.

The purpose of this Act is to appropriate additional funds for emergency aeromedical services on Oahu.

An additional \$1,444,828 in general funds for fiscal year 2006-2007 is required to pay for emergency aeromedical services on Oahu. This emergency appropriation is necessary to cover the reimbursement costs associated with the delivery of service by the Hawaii Army National Guard in providing emergency aeromedical services that were previously provided by the United States Army.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,444,828 or so much thereof as may be necessary for fiscal year 2006-2007, to reimburse costs associated with the delivery of service by the Hawaii Army National Guard or other provider.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. In accordance with section 9 of Article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 (established at \$5,357,987,705 on November 8, 2006) has already been exceeded by \$90,137,694 or 1.68 per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$1,444,828 or an additional 0.027 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

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

(Approved May 9, 2007.)

ACT 66

H.B. NO. 1370

A Bill for an Act Making an Emergency Appropriation to the Department of Health for the Adult Mental Health Division.

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

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

SECTION 2. Although funds were appropriated to the department of health for adult mental health services for the fiscal period beginning July 1, 2006, and ending June 30, 2007, a funding emergency now exists. The 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 services to certain adults with severe mental illness.

Over the past four fiscal years, the adult mental health division has served an increasing number of eligible mental health consumers and has provided an increased number of crisis outreach, eligibility determination, homeless outreach, and jail diversion services. This emergency appropriation is to continue existing services to meet the needs of the expanding eligible population and to continue funding of required services developed during the fiscal year. This increase in services and the number of consumers served resulted first from the settlement agreement and subsequent orders in *United States of America v. State of Hawaii*, Civil Number 91-00137 (DAE/KSC) and continues in response to the need for the public mental health services that the adult mental health division provides.

The purpose of this Act is to appropriate emergency funds for ongoing services of the adult mental health division.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$8,377,698 or so much thereof as may be necessary for fiscal year 2006-2007 for ongoing services provided by the adult mental health division.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. In accordance with section 9 of Article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 (established at \$5,357,987,705 on November 8, 2006) has already been exceeded by \$90,137,694 or 1.68 per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$8,377,698, or an additional 0.156 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

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

(Approved May 9, 2007.)

ACT 67

A Bill for an Act Making an Emergency Appropriation for Risk Management.

*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. The purpose of this Act is to cover unanticipated increases in property insurance premiums and deductibles by making an emergency appropriation of \$800,000 in general funds for deposit into the state risk management revolving fund, appropriating \$2,926,000 out of various departmental and agency special or revolving funds for deposit into the state risk management revolving fund, and increasing the spending ceiling of the state risk management special fund by \$3,000,000 to \$21,450,000.

SECTION 3. In accordance with section 9 of article VII, of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 has already been exceeded by \$90,137,694 or 1.68 per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$800,000, or an additional 0.015 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$800,000 for fiscal year 2006-2007 to be deposited into the state risk management revolving fund created in section 41D-4, Hawaii Revised Statutes.

SECTION 5. There is appropriated out of the following special or revolving funds of the following departments and agencies, the following sums for a combined sum of \$2,926,000 in special or revolving funds for fiscal year 2006-2007 to be deposited into the state risk management revolving fund:

Business & Economic Development and Tourism		
Foreign Trade Zone		
BED 107	Foreign-Trade Zones	
	Special Fund	\$    6,000
Hawaii Tourism Authority		
BED 113	Tourism Special Fund	\$ 165,000
High Technology Development Corporation/Hawaii		
Center for Advanced Transportation Technologies		
BED 143	U.S. Air Force MORD-HEVDP	\$    4,000
High Technology Development Corporation		
BED 143	High Technology Special Fund	\$    5,000

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Hawaii Community Development Authority		
BED 150 Hawaii Community Development		
Revolving Fund		\$ 42,000
Transportation-Airports		
TRN 195 Airports Division		\$1,395,000
Transportation-Highways		
TRN 595 Highways Division		\$ 309,000
Hawaii Health Systems Corp.		
HTH 210 Hawaii Health Systems		
Corporation Operating		\$ 223,000
Hawaii Public Housing Authority		
HMS 220 Rental Housing Program		\$ 777,000

SECTION 6. There is appropriated out of the state risk management revolving fund the sum of \$3,000,000 for fiscal year 2006-2007.

SECTION 7. All sums appropriated by this Act shall be expended by the department of accounting and general services for the purposes of this Act.

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

(Approved May 11, 2007.)

**ACT 68**

H.B. NO. 1338

A Bill for an Act Making Emergency Appropriations for the Division of Consumer Advocacy.

*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. The purpose of this Act is to provide emergency appropriations for the division of consumer advocacy of the department of commerce and consumer affairs to investigate the power outages that occurred on October 15, 2006, on the islands of Oahu, Maui, and Hawaii.

The legislature finds and declares that the appropriations under this Act are in the public interest and are necessary for the protection of the consumers of electric services in the State.

SECTION 3. There is appropriated out of the public utilities commission special fund the sum of \$100,000 for fiscal year 2006-2007 to be deposited into the compliance resolution fund.

SECTION 4. There is appropriated out of the compliance resolution fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2006-2007 to investigate the power outages that occurred on October 15, 2006, on the islands of Oahu, Maui, and Hawaii.

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 5. The division of consumer advocacy shall submit a report to the legislature no later than twenty days before the convening of the regular session of 2008 providing:

- (1) The date of each expenditure;
- (2) The identity of any recipient of payments for each expenditure; and
- (3) The scope of the consultant contract for which each expenditure was provided.

SECTION 6. Any provision of this Act to the contrary notwithstanding, the appropriations authorized under this Act shall not lapse at the end of the fiscal year for which the appropriation was made. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2008, shall lapse.

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

(Approved May 11, 2007.)

## ACT 69

S.B. NO. 1528

A Bill for an Act Relating to Traffic Infractions.

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

SECTION 1. Section 291C-161, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except as provided in subsections (c) and (d), every person who ~~[violates]~~ is determined to have violated any provision of this chapter for which another penalty is not provided shall be fined:

- (1) Not more than \$200 for a first ~~[conviction]~~ violation thereof;
- (2) Not more than \$300 for ~~[conviction of]~~ a second ~~[offense]~~ violation committed within one year after the date of the first ~~[offense;]~~ violation; and
- (3) Not more than \$500 for ~~[conviction of]~~ a third or subsequent ~~[offense]~~ violation committed within one year after the date of the first ~~[offense.]~~ violation.”

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

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

(Approved May 16, 2007.)

## ACT 70

H.B. NO. 1379

A Bill for an Act Relating to Employment Security Law.

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

SECTION 1. The purpose of this Act is to provide the same type of unemployment insurance exclusion in state law as in federal law for the exclusion of

certain alien agricultural workers and to conform coverage of Indian tribe workers under state law to federal law.

Under Public Law 94-566, the Unemployment Compensation Act of 1976, agricultural labor became subject to the federal unemployment tax, except for nonresident aliens who were temporarily admitted to the United States to perform contract agricultural work. Under Public Law 96-84, alien agricultural labor must be included solely for purposes of determining the threshold of coverage such as cash wages paid and number of individuals and weeks worked.

Under Public Law 106-554, the Consolidated Appropriations Act, 2001, American Indian tribes must now be treated similarly to state and local governments and nonprofit organizations under federal and state law. The provisions of this bill conform with the Consolidated Appropriations Act requirements.

SECTION 2. Chapter 383, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§383- Treatment of Indian tribes.** (a) Benefits based on service in employment as defined in this section shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this chapter. The financing of benefits shall apply in the same manner and under the same terms and conditions as in section 383-62 for nonprofit organizations subject to this chapter; except that the provisions of this section shall apply where there is a conflict.

(b) Any Indian tribe or tribal unit (subdivisions, subsidiaries, or business enterprises wholly owned by the Indian tribe) subject to this chapter on or after January 1, 2007:

- (1) Shall pay contributions under the provisions of this part (with the exception of the provisions in section 383-62(b)) applicable to other employers, unless it elects to pay to the director for the fund an amount equal to the amount of benefits that is attributable to service in the employ of an Indian tribe;
- (2) That elects to make payments in lieu of contributions shall make this election in the same manner and under the same conditions as provided in section 383-62(d)(1). Indian tribes or tribal units shall determine if reimbursement for benefits paid will be elected by the tribe as a whole, by individual tribal units, or by combinations of individual tribal units;
- (3) Shall be billed and payments shall be made in accordance with section 383-62(d)(2), for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as nonprofit organizations that have elected to make reimbursement payments in lieu of contributions; and
- (4) That elects to become liable for payments in lieu of contributions shall be required, within thirty days after the effective date of its election, to deposit with the department an amount of money as security as determined by section 383-62(d)(3).

(c) Failure of the Indian tribe or tribal unit to make any required payment under this chapter within ninety days after a notice of delinquency was mailed to its last known address or was otherwise delivered to it, shall cause the Indian tribe to lose the option to make payments in lieu of contributions and the termination shall continue for the four-consecutive-calendar-quarter period beginning with the quarter in which the termination becomes effective.

Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, shall have such option reinstated after a period of one year if all contributions have been timely made; provided no contribu-

tions, payments in lieu of contributions for benefits paid, security deposit, and penalties or interest remain outstanding.

If any Indian tribe or tribal unit fails to make payments required under this section (including assessed interest and penalty) within ninety days of a notice of delinquency, the department shall immediately notify the United States Internal Revenue Service and the United States Department of Labor.

(d) Notices of payment and reporting delinquency to Indian tribes and tribal units shall include information that failure to make full payments within the prescribed time shall cause the Indian tribe to:

- (1) Be liable for taxes under the Federal Unemployment Tax Act; and
- (2) Lose the option to make payments in lieu of contributions.

(e) Except as provided in subsection (f), the amount payable to the fund by each Indian tribe or tribal unit that is liable for payments in lieu of contributions shall be determined in the same manner as provided in section 383-62(e).

(f) An Indian tribe or tribal unit shall reimburse the fund for all extended benefits paid that are attributable to service in the employ of the Indian tribe or tribal unit unless the benefits are reimbursed by the federal government.

(g) Any two or more Indian tribes or tribal units that have become liable for payments in lieu of contributions may file a joint application to the department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers in the same manner as provided in section 383-62(f).

(h) As used in this section:

“Employer” includes any Indian tribe for which service in employment, as defined in section 383-2, is performed.

“Employment” means service performed in the employ of an Indian tribe; provided that the service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(7), of the Federal Unemployment Tax Act, and is not otherwise excluded from employment under this chapter. For purposes of this section, the exclusions from employment under section 383-7, apply to services performed in the employ of an Indian tribe in the same manner as the exclusions apply to government and nonprofit entities.

“Indian tribe” has the meaning given the term by Section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. Section 450b(e)), and includes any subdivision, subsidiary, or business enterprises wholly owned by the Indian tribe.”

SECTION 3. Section 383-7, Hawaii Revised Statutes, is amended to read as follows:

“**§383-7 Excluded service.** “Employment” shall 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[;], including labor performed by an alien referred to in subparagraph (C); 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[;], including labor performed by an alien referred to in subparagraph (C); 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[;], including labor performed by an alien referred to in subparagraph (C); or
- (C) If such agricultural labor is performed by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to Sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;
- (2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority as set forth in section 3306(c)(2) of the Internal Revenue Code of 1986, as amended;
- (3) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if:
  - (A) On each of some twenty-four days during the quarter the individual performs the service for some portion of the day; or
  - (B) The individual was regularly employed as determined under subparagraph (A) by the employing unit in the performance of 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 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);
  - (ii) The service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employing unit which had in its employ one or more individuals performing the service for some portion of a day in each of twenty calendar weeks all occurring, whether consecutive or not, in either the current or the preceding calendar year; and
  - (iii) Service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
- (5) Service performed by an individual in the employ of 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 apply to those instrumentalities, and to services performed for 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 those instrumentalities with respect to 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 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 the service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1986, as amended;
- (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 the Code), if:
  - (i) The remuneration for the service is less than \$50; or
  - (ii) The service is performed by a fully ordained, commissioned, or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of duties required by the order;
- (B) Service performed in the employ of a school, college, or university, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university; or
- (C) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;
- (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-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 producer, if all 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 service performed by the individual for 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 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 services performed by the individual for the employing unit are performed for remuneration solely by way of commission;
- (20) Service performed for a 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 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 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;
- (21) Service performed by a direct seller as defined in section 3508 of the Internal Revenue Code of 1986; and
  - (22) Service performed by an election official or election worker as defined in section 3309(b)(3)(F) of the Internal Revenue Code of 1986, as amended.

None of the foregoing exclusions (1) to (22) 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 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved May 16, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 71**

H.B. NO. 1641

A Bill for an Act Relating to Pesticides.

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

SECTION 1. Section 149A-2, Hawaii Revised Statutes, is amended by adding a new definition to read as follows:

““Pest control operator” means a commercial pesticide applicator, who is required to possess a valid license for pest control under chapter 460J.”

SECTION 2. Section 149A-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) It shall be unlawful to:

- (1) Detach, alter, deface, or destroy, in whole or in part, any label or alter any labeling of a pesticide unless it is approved by the department to correct an improper label or labeling under section 24(c), FIFRA[-];
- (2) Add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter[-];
- (3) Use for a person’s own advantage or [tø] reveal any information relative to formulas of products acquired in the administration of this chapter, to persons other than to the chairperson or proper officials or employees of the State or the federal government; to the courts of this

State or the federal government in response to a subpoena; to physicians; or, in emergencies, to pharmacists and other qualified persons for use in the preparation of antidotes[-];

- (4) For any pesticide dealer, wholesaler, or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted use pesticides unless the dealer, wholesaler, or retailer has applied for and has obtained a license from the department[-];
- (5) For any pesticide dealer, wholesaler, or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted use pesticides to any person other than a certified pesticide applicator[-];
- (6) For any pesticide dealer, wholesaler, or retailer to make any verbal or written claim or representation relating to any pesticide product that is inconsistent with the specific pesticide product label[-]; or
- (7) For any pesticide dealer to expose to, offer for sale to, or solicit or receive orders for the sale of restricted use pesticides to any pest control operator or to an employee of the pest control operator acting on the pest control operator's behalf without satisfactory proof that the pest control operator holds, or has held within the previous one hundred twenty days, a pest control license and, when applicable, without satisfactory proof that the employee is employed by the pest control operator.

SECTION 3. Section 149A-31, Hawaii Revised Statutes, is amended to read as follows:

“§149A-31 Prohibited acts. No person shall:

- (1) Use any pesticide in a manner inconsistent with its label, except that it shall not be unlawful to:
  - (A) Apply a pesticide at any dosage, concentration, or frequency less than that specified on the label or labeling; provided that the efficacy of the pesticide is maintained and further provided that, when a pesticide is applied by a commercial applicator, the deviation from the label recommendations must be with the consent of the purchaser of the pesticide application services;
  - (B) Apply a pesticide against any target pest not specified in the labeling if the application is to a crop, animal, or site specified on the label or labeling; provided that the label or labeling does not specifically prohibit the use on pests other than those listed on the label or labeling;
  - (C) Employ any method of application not prohibited by the labeling;
  - (D) Mix a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the label or labeling; or
  - (E) Use in a manner determined by rule not to be an unlawful act;
- (2) Use, store, transport, or discard any pesticide or pesticide container in any manner which would have unreasonable adverse effects on the environment;
- (3) Use or apply restricted use pesticides unless the person is a certified pesticide applicator or under the direct supervision of a certified pesticide applicator with a valid certificate issued pursuant to rules adopted under section 149A-33(1); provided that it shall be prohibited to use or apply a restricted use pesticide for structural pest control uses for a fee or trading of services, unless the user or applicator is a pest control operator or is employed by a pest control operator licensed under chapter 460J;

- (4) Use or apply pesticides in any manner that has been suspended, canceled, or restricted pursuant to section 149A-32.5;
- (5) Falsify any record or report required to be made or maintained by rules adopted pursuant to this chapter; or
- (6) Fill with water, through a hose, pipe, or other similar transmission system, any tank, implement, apparatus, or equipment used to disperse pesticides, unless the tank, implement, apparatus, equipment, hose, pipe, or other similar transmission system is equipped with an air gap or a reduced-pressure principle backflow device meeting the requirements under section 340E-2 and the rules adopted thereunder.’’

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

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

(Approved May 16, 2007.)

## ACT 72

S.B. NO. 55

A Bill for an Act Relating to Dentistry.

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

SECTION 1. Section 448-9.4, Hawaii Revised Statutes, is amended to read as follows:

“~~[§448-9.4] American Board of Dental Examiners (ADEX) examination; regional examinations. [Once the American Board of Dental Examiners (ADEX) examination is available and approved by the board, an] An applicant shall take and pass the ADEX examination, and neither the state examination nor any regional examination shall be accepted[; provided that an applicant who has taken a regional examination after February 1, 2004, but prior to the availability of the ADEX examination shall be deemed to have met the board’s examination requirement if the applicant passes the exam].~~”

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

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

(Approved May 16, 2007.)

## ACT 73

S.B. NO. 840

A Bill for an Act Relating to Kikala-Keokea.

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

SECTION 1. The legislature finds that the destruction of Kalapana by lava flow displaced a tightly knit community with a truly Hawaiian lifestyle. In 1938, the United States Congress enacted, the Kalapana Extension Act (16 U.S.C. 396a),

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providing that native Hawaiian residents of the area were to be provided with leases for homesites and that fishing was to be permitted only by native Hawaiian residents of the area or adjacent villages, and by visitors under their guidance.

The continuation of the unique way of life of the Hawaiian residents of Kalapana was disrupted by volcanic eruptions and lava flows that began on January 3, 1983, destroying one of the last Hawaiian settlements on the island of Hawaii.

The legislature recognized this tragedy by enacting Act 314, Session Laws of Hawaii 1991, as amended (Act 314), authorizing the department of land and natural resources to negotiate long-term leases with qualified, displaced Kalapana families to maintain their heritage in the Kikala-Keokea homestead area adjacent to Kalapana-Kapoho beach road. The site allows the Kalapana families to develop the land in a manner that will enable them to continue their traditional way of life by raising small animals, planting sustenance crops, growing herbal medicines and gathering additional food resources from the nearby ocean and uplands.

Act 314 also stipulated that the department of land and natural resources or its designated agency subdivide and create a residential subdivision in the Kikala-Keokea homestead area that will be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, the development and improvement of land, and the construction of units thereon; provided that it meets the minimum requirements of health and safety.

Prior to the expiration of Act 314, the department of land and natural resources entered into lease arrangements with forty-eight families who met the eligibility criteria set forth under the Act. However, there are nineteen remaining lots which were not leased prior to the expiration of Act 314.

The purpose of this Act is to authorize the department of land and natural resources, subject to specific criteria and priority requirements, to award leases for the remaining nineteen lots at Kikala-Keokea.

**SECTION 2.** The department of land and natural resources may negotiate and enter into long-term leases of sixty-five years in duration, subject to renewal by mutual agreement, with persons who have attained the age of eighteen years, and meet the following criteria:

- (1) Residents of Kalapana who have been living in Kalapana continuously for not less than six months at the time of their application;
- (2) Previous residents of Kalapana who resided within Kalapana continuously for not less than six months; or
- (3) Descendants of those residents of Kalapana who were dispossessed or displaced as a result of the volcanic eruptions on the island of Hawaii that began on January 3, 1983.

**SECTION 3.** In awarding a lease to a person meeting the eligibility requirements of section 2 of this Act, the department of land and natural resources shall give priority to the following:

- (1) Persons who were previously awarded a lease under Act 314, Session Laws of Hawaii 1991, but did not execute a lease;
- (2) Persons who were dispossessed or displaced as a result of the volcanic eruptions on the island of Hawaii that began on January 3, 1983, who do not have any other residential property interest;
- (3) Persons who have no immediate family members who have executed a lease under this Act or under Act 314, Session Laws of Hawaii 1991;
- (4) Persons who have not executed a lease under this Act or under Act 314, Session Laws of Hawaii 1991; and

- (5) Heirs of a person who was eligible for a lease under section 2 of Act 314, Session Laws of Hawaii 1991.

For the purpose of this Act:

“Heirs” includes persons, including a surviving spouse or reciprocal beneficiary, who are entitled under the statutes of intestate succession to the property of a decedent.

“Immediate family members” includes grandparents, parents, siblings, spouse, reciprocal beneficiaries, children, and legal guardians.

SECTION 4. The lands eligible for long-term residential lease negotiation under this Act are limited to those lands described in section 3 of Act 314, Session Laws of Hawaii 1991, for which a lease was not executed prior to the expiration of Act 314, Session Laws of Hawaii 1991.

SECTION 5. Notwithstanding any other law to the contrary, including chapter 171, Hawaii Revised Statutes, the department of land and natural resources may negotiate and enter into lease agreements in accordance with the provisions and limitations of this Act; provided that the authority to initially execute a lease agreement granted by this Act shall expire:

- (1) When all nineteen leases have been negotiated and recorded in the bureau of conveyances for all parcels meeting the criteria in this Act; or
- (2) One year after the effective date of this Act; whichever comes first.

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

(Approved May 16, 2007.)

## ACT 74

S.B. NO. 784

A Bill for an Act Relating to Driver Licensing.

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

SECTION 1. Section 286-102.6, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) If the provisional licensee violates any of the requirements of subsection (b) or (c):

- (1) For a first violation of any requirement, the provisional license shall be suspended for a period of three months by a district court or family court judge. If the person’s provisional license is suspended, the person shall not be eligible for reissuance of the provisional license or issuance of a driver’s license until:
  - (A) The person is eighteen years of age; or
  - (B) Three months have elapsed since the date of suspension, whichever is sooner, and the person has otherwise satisfied the requirements of this chapter; and
- (2) For a second or any subsequent violation of any requirement, the provisional license shall be revoked for six months by a district court or family court judge. If the person’s provisional license is revoked, the person shall not be eligible for reissuance of the provisional license or issuance of a driver’s license until:
  - (A) The person is eighteen years of age; or

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(B) Six months have elapsed since the date of revocation, whichever is sooner, and the person has otherwise satisfied the requirements of this chapter.

Suspension or revocation of a provisional license pursuant to this subsection shall be exempt from proof of financial responsibility requirements under section 287-20.”

SECTION 2. 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:

- (1) Pursuant to section 291E-65 or part III of chapter 291E, except as provided in section 291E-41(f);
- (2) Upon a conviction of any offense pursuant to law; or
- (3) In the case of minors, 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 a license suspended pursuant to section 291E-61(b)(1) or 291E-64(b)(1), any conviction of a moving violation, any administrative license suspension pursuant to chapter 291A, or the first conviction within a five-year period for driving without a valid motor vehicle insurance policy.

This subsection shall not apply to a suspension or revocation of a provisional license under section 286-102.6(d).”

SECTION 3. New statutory material is underscored.

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

(Approved May 18, 2007.)

**ACT 75**

H.B. NO. 1063

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

*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. The purpose of this Act is to increase the authorization of the department of defense to expend interdepartmentally transferred funds for the Operation About Face program by increasing the amount for fiscal year 2006-2007 from \$4,700,000 to \$7,900,000 in item I-20 of section 3 of Act 178, Session Laws of Hawaii 2005, as amended by Act 160, Session Laws of Hawaii 2006.

The authorization to expend additional interdepartmentally transferred funds will allow the department of defense to receive and expend all the federal temporary assistance to needy families funds received from the department of human services for the Hawaii national guard’s Operation About Face family of programs statewide.

SECTION 3. Act 178, Session Laws of Hawaii 2005, as amended by Act 160, Session Laws of Hawaii 2006, is amended by amending item I-20 of section 3 to read as follows:

‘20. DEF110 – AMELIORATION OF PHYSICAL DISASTERS			
		122.80*	122.80*
OPERATING	DEF	7,992,197A	8,067,074A
		47.70*	47.70*
	DEF	19,997,125N	69,674,625N
	DEF	S	464,458S
	DEF	U	[4,700,000U]
			<u>7,900,000U</u>
INVESTMENT CAPITAL	AGS	1,639,000C	5,973,000C
	AGS	100,000N	100,000N
	DEF	100,000C	650,000C
	DEF		4,000,000N’

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

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

(Approved May 18, 2007.)

**ACT 76**

H.B. NO. 1231

A Bill for an Act Making Appropriations for Claims Against the State, Its Officers, or Its Employees.

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

**PART I**

SECTION 1. In accordance with section 9 of Article VII, of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 (established at \$5,357,987,705 on November 8, 2006) has already been exceeded by \$90,137,694 or 1.68 per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$1,351,843.07 or an additional .025 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

PART II

SECTION 2. The following sums or so much thereof as may be necessary for fiscal year 2006-2007 are appropriated out of the general revenues of the State of Hawaii to the department of the attorney general for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, and entities, for claims against the State or its officers or employees for the overpayment of taxes, or for refunds, reimbursements, payments of judgments or settlements, or other liabilities, in the amounts set forth opposite their names:

<b>JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:</b>	<b>AMOUNT</b>
<b>1. DEPARTMENT OF BUDGET AND FINANCE</b>	
In re Katsumi Honda	\$ 65,000.00 Settlement
SUBTOTAL:	\$ 65,000.00
<b>2. DEPARTMENT OF EDUCATION:</b>	
Ena v. State of Hawaii, et al.	\$ 35,954.52 Judgment
Civil No. 04-1-2064-11, First Circuit	
Amount of judgment:	\$ 35,168.29
4% interest	
from 9/13/06-7/31/07:	\$ 786.23
Fontaine v. Waialae Elementary School, et al., Civil No. 1RC05-1-1583, District Court of the First Circuit	\$ 28,126.92 Judgment
Amount of judgment:	\$ 20,000.00
Fees and costs:	\$ 6,760.31
4% interest	
from 4/22/06-7/31/07:	\$ 1,366.61
Grossman v. State of Hawaii, et al.	\$ 11,916.40 Judgment
Civil No. 03-1-0213(1), Second Circuit	
Amount of judgment:	\$ 11,510.23
4% interest	
from 9/13/06-7/31/07:	\$ 406.17
Haines v. State of Hawaii, et al.	\$ 25,000.00 Settlement
Civil No. 05-1-0440(3), Second Circuit	
Kwock v. State of Hawaii, et al.	\$ 60,000.00 Settlement
Civil No. 05-00241, United States District Court	
Miyashiro, et al. v. State of Hawaii	\$ 65,000.00 Settlement
Civil No. 05-1-1339-07, First Circuit	
Sherez v. State of Hawaii, et al.	\$ 75,000.00 Settlement
Civil No. 04-00390, United States District Court and	
Sherez v. State of Hawaii, et al.	
Civil No. 06-00367, United States District Court	
Shipley v. State of Hawaii, Department of Education, et al.	\$ 30,000.00 Settlement
Civil No. 05-00145, United States District Court	
SUBTOTAL:	\$ 330,997.84

<b>JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:</b>	<b>AMOUNT</b>
<b>3. HAWAII PUBLIC HOUSING AUTHORITY:</b>	
Waters, et al. v. Housing and Community Development Corporation of Hawaii, et al. Civil No. 05-1-0815-05, First Circuit	\$ 155,000.00 Settlement
<b>SUBTOTAL:</b>	\$ 155,000.00
<b>4. DEPARTMENT OF HAWAIIAN HOME LANDS:</b>	
Kalima, et al. v. State of Hawaii, et al. Civil No. 99-4771-12, First Circuit S.Ct. No. 24784	\$ 166,979.38 Judgment
<b>SUBTOTAL:</b>	\$ 166,979.38
<b>5. DEPARTMENT OF HEALTH:</b>	
Vargas v. Johnson, et al. Civil No. 04-1-0317, Second Circuit	\$ 85,000.00 Settlement
<b>SUBTOTAL:</b>	\$ 85,000.00
<b>6. DEPARTMENT OF HUMAN SERVICES</b>	
Alsip v. Akau, et al. Civil No. 03-1-0499-03, First Circuit	\$ 155,000.00 Settlement
In the Matter of the Adoption of a Female Child, born on December 21, 1994, by Roger Douglas Powell and Tequilla Lanier Ramsey Powell FC-A No. 04-10491, Family Court of the First Circuit	\$ 7,219.40 Settlement
<b>SUBTOTAL:</b>	\$ 162,219.40
<b>7. DEPARTMENT OF LAND AND NATURAL RESOURCES:</b>	
She v. State of Hawaii, et al. Civil No. 05-00578, United States District Court	\$ 90,000.00 Settlement
<b>SUBTOTAL:</b>	\$ 90,000.00
<b>8. DEPARTMENT OF PUBLIC SAFETY:</b>	
Branco v. State of Hawaii, et al. Civil No. 04-1-0250-02, First Circuit	\$ 15,000.00 Settlement
Cummings v. State of Hawaii, et al. Civil No. 02-1-1831-08, First Circuit	\$ 131,633.26 Judgment
Amount of judgment:	\$127,936.81
Costs:	\$ 1,011.50
4% interest from 12/29/06-7/31/07:	\$ 2,684.95
Ellis, et al. v. Lopes, et al. Civil No. 06-00231, United States District Court	\$ 88,000.00 Settlement
Gealon v. State of Hawaii, et al. Civil No. 06-1-1283-07, First Circuit	\$ 17,000.00 Settlement
Piko v. State of Hawaii Civil No. 04-1-1511-08, First Circuit	\$ 18,613.19 Judgment
Amount of Judgment:	\$ 18,208.12
4% interest from 1/10/07-7/31/07:	\$ 405.07

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<b>JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:</b>	<b>AMOUNT</b>
Wong v. State of Hawaii, et al. Civil No. 04-1-0399(1), Second Circuit	\$ 25,000.00 Settlement
<b>SUBTOTAL:</b>	<b>\$ 295,246.45</b>
<b>9. MISCELLANEOUS CLAIMS:</b>	
Koyama, Yoko	\$ 40.00
Nolls, Michael and Brigitte Misplaced check	\$ 1,360.00
<b>SUBTOTAL:</b>	<b>\$ 1,400.00</b>
<b>TOTAL (SECTION 2):</b>	<b>\$1,351,843.07</b>

The sums appropriated shall be expended by the department of the attorney general for the purposes of this Act.

**PART III**

SECTION 3. The following sums or so much thereof as may be necessary for fiscal year 2006-2007 are appropriated out of the state highway fund for the purpose of satisfying claims for legislative relief as to the following named persons, for claims against the State or its officers or employees for payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

<b>JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:</b>	<b>AMOUNT</b>
<b>DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION:</b>	
Benjamin v. Stevenson, et al. Civil No. 03-1-0040(3), Second Circuit	\$300,000.00 Settlement
Clark v. State of Hawaii, et al. Civil No. 05-1-0363-03, First Circuit	\$ 13,960.19 Judgment
Amount of judgment:	\$13,603.88
4% interest From 11/13/06-7/31/07:	\$ 356.31
Gillia v. State of Hawaii Civil No. 05-1-1322-07, First Circuit	\$ 40,000.00 Settlement
Medeiros v. State of Hawaii, et al. Civil No. 04-1-1216-07, First Circuit	\$ 36,784.03 Judgment
Amount of judgment:	\$35,975.81
4% interest From 1/8/07-7/31/07:	\$ 808.22
Ramos v. State of Hawaii Civil No. 04-1-1498-08, First Circuit	\$135,000.00 Settlement
Taniguchi v. State of Hawaii, et al. Civil No. 05-1-0500-03, First Circuit	\$ 45,000.00 Settlement
Tradewind Insurance Company Limited and Wesley Wong	\$ 15,000.00 Settlement
<b>SUBTOTAL:</b>	<b>\$285,744.22</b>
<b>TOTAL (SECTION 3):</b>	<b>\$585,744.22</b>

The sums appropriated shall be expended by the department of transportation, highways division, for the purposes of this Act.

SECTION 4. The sums hereinabove may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in several amounts hereinabove set forth or in lesser amounts deemed appropriate, upon checks issued by the comptroller; provided departments must obtain the approval of the attorney general before payment of any claim can be made.

SECTION 5. Notwithstanding the sums hereinabove stated as interest upon judgments against the State, payment of interest shall be limited to the period from the date of judgment, if applicable, to thirty days after the effective date of this part, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which the statute applies.

#### PART IV

SECTION 6. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2008, shall lapse.

SECTION 7. 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 8. This Act shall take effect upon its approval.

(Approved May 18, 2007.)

### ACT 77

H.B. NO. 277

A Bill for an Act Relating to Fees for Windshield Placards for Persons With Disabilities.

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

SECTION 1. Section 291-51.3, Hawaii Revised Statutes, is amended to read as follows:

“~~[(§291-51.3)]~~ **Reimbursement to counties.** The State shall reimburse the counties for the unit cost of issuing a removable windshield placard or a temporary removable windshield placard on behalf of the State. Beginning July 1, 2006, the rate of the per unit cost reimbursement shall be \$12. All fees collected by the counties for issuing removable and temporary removable windshield placards shall be deposited into the state general fund.”

SECTION 2. Section 291-51.6, Hawaii Revised Statutes, is amended to read as follows:

“**§291-51.6 Issuance of temporary removable windshield [parking] placards.** Each county shall issue one temporary removable windshield placard and a second temporary removable windshield placard to each applicant who requests and presents a certificate of disability that verifies the duration of the applicant’s

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disability in monthly increments, which shall not exceed six months, and upon payment of a fee to the issuing agency. All fees collected by the counties for issuing temporary removable windshield placards shall be deposited into the state general fund. The temporary removable windshield placard shall be designed, fabricated, and sold to the counties at a rate negotiated by the disability and communication access board.”

SECTION 3. Section 291-52.6, Hawaii Revised Statutes, is amended to read as follows:

**“§291-52.6 Replacement of a lost, stolen, or mutilated removable windshield placard or identification card.** A removable windshield placard, temporary removable windshield placard, or identification card that is reported lost, stolen, or mutilated shall be replaced upon ~~[the submittal of a]~~:

(1) Submittal to the issuing agency of:

(A) A written statement by a person with a disability that the placard or identification card was either lost, stolen, or mutilated ~~[and a]~~; and

(B) A completed application for a removable windshield placard, temporary removable windshield placard, or identification card to the issuing agency~~[-]~~; and

(2) Payment of a fee to the issuing agency.

All fees collected by the counties for replacement of a lost, stolen, or mutilated removable windshield placard shall be deposited into the state general fund.”

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

SECTION 5. This Act shall take effect upon approval.

(Approved May 18, 2007.)

## ACT 78

H.B. NO. 1345

A Bill for an Act Making an Emergency Appropriation for Natural Disasters.

*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. The purpose of this Act is to make an emergency appropriation for emergency relief operations in the counties of Hawaii, Maui, Kauai, and the city and county of Honolulu as a result of the October 15, 2006, Kiholo Bay earthquake disaster to:

- (1) Cover the costs of statewide response and recovery efforts to repair damaged homes, public buildings, transportation infrastructure, utilities, irrigation systems in Waimea, lower Hamakua, and North Kohala, hospitals, and nursing homes, especially on the islands of Hawaii and Maui;
- (2) Cover the required twenty-five per cent cost share for the Federal Emergency Management Agency’s public assistance program and indi-

- vidual assistance program, as required by the Robert T. Stafford Disaster and Emergency Assistance Act, and for the Natural Resources Conservation Service's emergency watershed protection program;
- (3) Upgrade state and county warning systems by providing emergency generators to selected critical facilities such as radio and television stations to ensure continuity of operations in informing the general public of potential immediate risks;
  - (4) Hire consultants to:
    - (A) Investigate and survey alternate sources of irrigation water for Hawaii island; and
    - (B) Develop and coordinate plans for public and private partnerships to improve and to protect sources and distribution of irrigation water on Hawaii island; and
  - (5) Provide financial assistance to critical facilities such as public schools, hospitals, and nursing facilities for structural and non-structural mitigation projects.

The legislature finds and declares the appropriations under this Act are in the public interest and ensures public health, safety, and general welfare of the State.

SECTION 3. 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 2006-2007, to cover operational expenses associated with earthquake disaster recovery efforts, including but not limited to national guard personnel on state active duty and helicopter operating expenses.

The sum appropriated shall be expended by the department of defense for the purposes of this Act.

SECTION 4. There is appropriated out of the emergency and budget reserve fund, established pursuant to section 328L-3, Hawaii Revised Statutes, the sum of \$24,000,000 or so much thereof as may be necessary for fiscal year 2006-2007 for earthquake disaster recovery projects to include the twenty-five per cent non-federal cost share for all earthquake disaster recovery projects made eligible under the Federal Emergency Management Agency's public assistance program. The appropriation will provide for the emergency repair of the Kohala ditch in North Kohala, including access roads, trails, and flume repairs between the Honokane Nui intake and Niulii weir, and the repair and restoration of the Hulihe'e Palace located in Kailua-Kona.

Further provided that of the \$24,000,000 appropriation, the following minimum funds shall be allocated for specific earthquake disaster recovery projects:

- (1) \$1,000,000 for Hulihe'e Palace;
- (2) \$500,000 for the flume repair at Kohala ditch in North Kohala, including access roads and trails;
- (3) \$3,500,000 for the department of land and natural resources for harbors and parks, including access roads and trails;
- (4) \$3,500,000 for the department of agriculture for Waimea, upper and lower Hamakua irrigation systems;
- (5) \$1,000,000 for the department of transportation for Kawaihae harbor;
- (6) \$300,000 for the natural energy laboratory of Hawaii authority for deep water pipeline system;
- (7) \$600,000 for the judiciary for courthouse emergency repairs;
- (8) \$850,000 for the county of Hawaii for the Ikuo Hisaoka Gym, Keokea Beach Park, and Paaulo Gym & Annex; and
- (9) \$200,000 for Kona community hospital emergency repairs.

## ACT 78

The sum shall also cover operational expenses associated with the October 15, 2006, Kiholo Bay earthquake disaster recovery efforts in the counties of Hawaii, Maui, Kauai, and the city and county of Honolulu pursuant to section 2 of this Act.

The sum appropriated shall be expended by the department of defense for the purposes of this Act.

**SECTION 5.** Each department or agency expending funds authorized by this Act shall submit annual reports to the legislature, beginning no later than January 15, 2008. The information contained in the reports shall:

- (1) Be organized by county;
- (2) Provide summaries of expenditure data on a statewide basis; and
- (3) Include:
  - (A) The date of each expenditure;
  - (B) The purpose and description of each expenditure;
  - (C) The identification of any recipient of payments from each expenditure; and
  - (D) For funds not authorized by this Act but nevertheless used by any department or agency for the purposes of this Act:
    - (i) The source of those funds, by specific program;
    - (ii) The impact to the programs originally funded by those funds; and
    - (iii) The need for any emergency appropriations that resulted from the diversion of those funds.

**SECTION 6.** Any provision of the Act to the contrary notwithstanding, the appropriations under this Act shall not lapse at the end of the fiscal year for which the appropriations were made. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2009, shall lapse.

Should any projects paid for by state funds under this Act later become eligible for federal reimbursement the federal reimbursement funds shall be deposited in the emergency and budget reserve fund; provided that moneys expended by departments and agencies of the state or counties for projects under this Act that later become eligible for federal reimbursements shall be reimbursed to the department or agency.

**SECTION 7.** In accordance with section 9 of article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 (established at \$5,357,987,705 on November 8, 2006) has already been exceeded by \$90,137,694 or 1.68 per cent. The appropriations contained in section 3 will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$900,000, or an additional 0.017 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in section 3 are necessary to serve the public interest and to meet the needs provided for by section 3.

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

(Approved May 18, 2007.)

## ACT 79

H.B. NO. 1721

A Bill for an Act Relating to Violence Against Emergency Medical Services Personnel.

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

SECTION 1. Section 707-711, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- “(1) A person commits the offense of assault in the second degree if:
- (a) The person intentionally or knowingly causes substantial bodily injury to another;
  - (b) The person recklessly causes serious or substantial bodily injury to another [person];
  - (c) The person intentionally or knowingly causes bodily injury to a correctional worker, as defined in section 710-1031(2), who is engaged in the performance of duty or who is within a correctional facility;
  - (d) The person intentionally or knowingly causes bodily injury to another [person] with a dangerous instrument; [or]
  - (e) The person intentionally or knowingly causes bodily injury to an educational worker who is engaged in the performance of duty or who is within an educational facility. For the purposes of this paragraph, “educational worker” means: any administrator, specialist, counselor, teacher, or employee of the department of education [ ]or[ ] an employee of a charter school; a person who is a volunteer, as defined in section 90-1, in a school program, activity, or function that is established, sanctioned, or approved by the department of education; or a person hired by the department of education on a contractual basis and engaged in carrying out an educational function[-]; or
  - (f) The person intentionally or knowingly causes bodily injury to any emergency medical services personnel who is engaged in the performance of duty. For the purposes of this paragraph, “emergency medical services personnel” shall have the same meaning as in section 321-222.”

SECTION 2. Section 707-716, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- “(1) A person commits the offense of terroristic threatening in the first degree if the person commits terroristic threatening:
- (a) By threatening another person on more than one occasion for the same or a similar purpose;
  - (b) By threats made in a common scheme against different persons;
  - (c) Against a public servant arising out of the performance of the public servant’s official duties. For the purposes of this paragraph, “public servant” includes but is not limited to an educational worker. “Educational worker” has the same meaning as defined in section 707-711; [or]
  - (d) Against any emergency medical services personnel who is engaged in the performance of duty. For purposes of this paragraph, “emergency medical services personnel” shall have the same meaning as in section 321-222; or
  - [(d)] (e) With the use of a dangerous instrument.”

## ACT 80

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 and stricken. New statutory material is underscored.

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

(Approved May 21, 2007.)

## ACT 80

S.B. NO. 1402

A Bill for an Act Relating to the Loss Mitigation Grant Fund.

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

### PART I

SECTION 1. During the special session of 2005, the legislature directed the department of defense to develop Hawaii public shelter and residential safe room design criteria. The legislature also amended the definition of "wind resistive devices" in section 431:22-101, Hawaii Revised Statutes, to include the safe room design criteria developed by the department of defense. The public shelter and residential safe room design criteria have been developed.

The purpose of this part is to encourage private construction of safe rooms by including residential safe rooms within the meaning of "wind resistive devices" and making them eligible for grants under the loss mitigation grant program.

SECTION 2. Section 431:22-101, Hawaii Revised Statutes, is amended by amending the definition of "wind resistive devices" to read as follows:

~~““Wind resistive devices” means devices [and], techniques, and residential safe rooms, as identified and determined in accordance with section 431:22-104(b), that increase a building’s or structure’s resistance to damage from wind forces. [The term shall also include safe rooms that are defined and built pursuant to design standards of the department of defense’s civil defense division that are adopted pursuant to chapter 91.]”~~

SECTION 3. Section 431:22-104, Hawaii Revised Statutes is amended by amending subsection (b) to read as follows:

~~“(b) Grants shall be awarded for the installation of the following:~~

- ~~(1) Uplift restraint ties at roof ridges and roof framing members to wall or beam supports;~~
- ~~(2) Additional fastening of roof sheathing and roof decking for high wind uplift;~~
- ~~(3) Impact and pressure resistant exterior opening protective devices; [and]~~
- ~~(4) Wall to foundation uplift restraint connections strengthening for wood foundation posts on footings[-]; and~~
- ~~(5) Residential safe rooms.~~

The description, specifications, guidelines, and requirements for these wind resistive devices shall be further developed and determined by the commissioner in the commissioner’s sole discretion. The commissioner, in the commissioner’s sole

discretion, may amend, narrow, or expand the definitions, description, specifications, and requirements of the wind resistive devices.”

## PART II

SECTION 4. There is appropriated out of the loss mitigation grant fund the sum of \$2,000,000, or so much thereof as may be necessary for fiscal year 2007-2008, for the purposes of the loss mitigation grant program under chapter 431, article 22, Hawaii Revised Statutes.

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

## PART III

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

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved May 21, 2007.)

## ACT 81

S.B. NO. 1425

A Bill for an Act Relating to Contractor Licensing Requirements During a State of Emergency or Disaster.

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

SECTION 1. Section 444-10.6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§444-10.6]] State of emergency or disaster; [acting as a contractor without a license; penalty.] emergency licensure; penalties.~~ (a) Notwithstanding any other provision of law to the contrary, the board may issue emergency contractor’s licenses during a state of emergency or disaster duly declared by the governor under chapter 209 upon a determination by the board that a shortage of Hawaii licensed contractors exists.

(b) To qualify for an emergency contractor’s license, an applicant shall:

- (1) Provide proof of licensure as a contractor in another state with similar contractor licensing requirements as those in this State, that the license is current, and that it has been in good standing for the past two years;
- (2) Provide proof of liability and property damage insurance, obtained through an insurer authorized to do business in this State or other insurer acceptable to the board;
- (3) Submit proof of workers’ compensation insurance as specified in the board’s rules;
- (4) Submit a current financial statement prepared by a certified public accountant and applicable credit reports as specified in the board’s rules;
- (5) Pay all applicable application and license fees, including recovery fund and education fund fees;
- (6) Submit a state tax clearance statement; and

(7) Provide proof of bond in the amount and in such form as set forth in section 444-16.5.

(c) The classifications of emergency contractor’s licenses issued and the duration of the emergency contractor’s licenses shall be determined by the board based on the nature and duration of the state of emergency or disaster, and the needs and best interests of the public.

(d) The board may delegate the issuance of emergency contractor’s licenses to its administrative staff; provided that the applicant shall be required to meet all of the requirements specified in this section before the issuance of the license.

(e) Any person who violates section 444-9, in connection with the offer or performance of repairs to a residential or nonresidential structure for damage caused by a natural disaster in a political subdivision for which a state of emergency or disaster is proclaimed by the governor, may be punished by a fine of up to \$10,000, [ø] imprisonment up to one year, or both, in addition to all other remedies or penalties.”

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

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

(Approved May 21, 2007.)

**ACT 82**

S.B. NO. 795

A Bill for an Act Relating to Building Codes.

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

SECTION 1. The legislature finds that the State has traditionally allowed the individual counties to establish their own building codes. The counties have adopted various portions of the Uniform Building Code, but the code differs from county to county. The status of fragmented building requirements in Hawaii is of serious concern to those involved in building ownership, design, construction, and insurance. Over forty states have adopted some form of a statewide building code.

The adoption of a uniform set of statewide building codes applicable to one and two family dwellings, all other residential uses, and commercial and industrial buildings, and state buildings would make it possible for building owners, designers, contractors, and code enforcers within the State to apply consistent standards. The International Building Code is currently being considered for adoption by all counties. The health and safety considerations related to the codes are of statewide interest, especially relating to emergency disaster preparedness.

The purpose of this Act is to require the department of accounting and general services to establish and implement a state building code.

SECTION 2. Chapter 107, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART II. STATE BUILDING CODE AND DESIGN STANDARDS**

**§107-A Definitions.** As used in this part:

“Council” means the state building code council.

“Department” means the department of accounting and general services.

“Hurricane resistive criteria” means the design criteria for enhanced hurricane protection areas that are capable of withstanding a five hundred-year hurricane event, as developed by the state department of defense for public shelter and residential safe room design criteria.

“State building construction” means any building construction project or program initiated by a state agency or requiring the use of state funds.

**§107-B State building code council.** (a) There is established a state building code council. The council shall be placed within the department of accounting and general services for administrative purposes only. The council shall consist of nine voting members and one nonvoting member, who shall be the comptroller or the comptroller’s designee. The council members shall serve four-year terms as defined in paragraphs (1) to (6). The voting members shall include:

- (1) One county building official from each of the four counties appointed by the mayor;
- (2) One member representing the state fire council;
- (3) One member representing the department of health who has significant experience in building mechanical and sewage disposal systems;
- (4) One member representing the department of labor and industrial relations who has significant experience in elevator or fire safety;
- (5) One member representing the Structural Engineers Association of Hawaii; and
- (6) One member representing the American Institute of Architects, Hawaii State Council.

(b) Six voting members shall constitute a quorum. The chairperson of the council shall be elected annually from among its members by a majority vote of the members of the council.

(c) Members shall serve without compensation, but shall be reimbursed for expenses, including travel expenses necessary for the performance of their duties.

**§107-C Executive director and executive assistant.** The council shall appoint, exempt from chapters 76 and 89, an executive director, who shall serve at the pleasure of the council, and who shall have administrative abilities and expertise in engineering or architecture. The council shall also appoint, exempt from chapters 76 and 89, an executive assistant, who shall have experience in statutory and administrative rulemaking processes.

**§107-D Authority and duties of the council.** (a) Any law to the contrary notwithstanding, the council shall establish a comprehensive state building code.

(b) The council shall appoint a subcommittee comprised of the four council members representing county building officials, whose duty shall be to recommend any necessary or desirable state amendments to the model codes. Any recommended state amendments shall require the unanimous agreement of the subcommittee.

(c) The council may appoint other investigative, technical expertise committees, which may include council members.

(d) The council shall consult with general building contractor associations and building trade associations to gather information and recommendations on construction practices and training relevant to building codes and standards.

(e) The council shall review and adopt, as appropriate, new model building codes within eighteen months of the official publication date.

(f) The council may make expenditures for technical references, equipment and supplies, and other operating expenses, and may contract for the conduct of research studies and other technical services.

(g) The council shall provide education and technical training and administrative assistance in the form of services or grants at the state and county levels relating to the implementation and enforcement of the state building code adopted pursuant to this part.

**§107-E State building code; requirements.** There is established a state building code applicable to all construction in the State of Hawaii. The state building code shall include:

- (1) The latest edition of the state fire code as adopted by the state fire council;
- (2) The latest edition of the Uniform Plumbing Code, as copyrighted and published by the International Association of Plumbing and Mechanical Officials, including its appendices;
- (3) The latest edition of the International Building Code, as published by the International Code Council;
- (4) Hawaii design standards implementing the criteria pursuant to Act 5, Special Session Laws of Hawaii, 2005, as applicable to:
  - (A) Emergency shelters built to comply with hurricane resistant criteria, including enhanced hurricane protection areas capable of withstanding a five hundred year hurricane event as well as other storms and natural hazards; and
  - (B) Essential government facilities requiring continuity of operations; and
- (5) Code provisions based on nationally published codes or standards that include, but are not limited to, residential and hurricane resistive standards for residential construction, fire, elevator, electrical, plumbing, mechanical, flood and tsunami, existing buildings, and energy conservation standards for building design and construction, and onsite sewage disposal.

**§107-F State building code; prohibitions.** In adopting a state building code, the council shall not adopt provisions that:

- (1) Relate to administrative, permitting, or enforcement and inspection procedures of each county; or
- (2) Conflict with chapter 464.

**§107-G Exemptions.** (a) Upon adoption of rules under this chapter, the design of all state building construction shall be in compliance with the state building code within one year of its effective date, and state building construction shall be allowed to be exempted from:

- (1) County codes that have not adopted the state building code;
- (2) Any county code amendments that are inconsistent with the minimum performance objectives of the state building code or the objectives enumerated in this part; or
- (3) Any county code amendments that are contrary to code amendments adopted by another county.

(b) Exemptions shall include county ordinances allowing the exercise of indigenous Hawaiian architecture adopted in accordance with section 46-1.55.

**§107-H County building code authority to amend the state model building code without state approval.** (a) The governing body of each county shall amend the state building code as it applies within its respective jurisdiction, in accordance with section 46-1.5(13), without approval of the council. Each county shall use the model codes and standards listed in section 107-E, as the referenced

model building codes and standards for its respective county building code ordinance, no later than two years after the adoption of the state building code.

(b) If a county does not amend the statewide model code within the two-year timeframe, the state building code shall become applicable as an interim county building code until the county adopts the amendments.

**§107-I Rules.** The department shall adopt rules pursuant to chapter 91 necessary for the purposes of this part.

**§107-J Annual report.** The department shall report to the legislature, no later than twenty days prior to the convening of each regular legislative session, on the council's activities and accomplishments.

**§107-K State building code; compliance.** The design of all state building construction shall be in compliance with the state building code within one year of its effective date."

SECTION 3. Chapter 107, Hawaii Revised Statutes, is amended by designating sections 107-1 to 107-11 as part I, entitled:

**“PART I. GENERAL PROVISIONS”**

SECTION 4. There is appropriated out of the interest earned from the principal in the Hawaii hurricane relief fund, the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum, or so much thereof as may be necessary for fiscal year 2008-2009 for the operations of the state building code council, including technical assistance services, and training and administrative assistance as required.

The sums appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 5. In codifying the new sections added 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. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 7. This Act shall take effect on July 1, 2007.

(Approved May 21, 2007.)

**ACT 83**

H.B. NO. 692

A Bill for an Act Relating to Agriculture.

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

SECTION 1. Act 131, Session Laws of Hawaii 2004, is amended by amending sections 4 and 5 to read as follows:

## ACT 84

“SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, [2007,] 2010, to issue 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 to refund 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 or whether 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 by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, [2007,] 2010.”

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

SECTION 3. This Act shall take effect on June 29, 2007.

(Approved May 22, 2007.)

## ACT 84

H.B. NO. 1411

A Bill for an Act Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code.

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

SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For all taxable years beginning after December 31, [2005,] 2006, as used in this chapter, “Internal Revenue Code” means subtitle A, chapter 1, of the federal Internal Revenue Code of 1986, as amended as of December 31, [2005,] 2006, 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 laws which, pursuant to this chapter, do not apply or are otherwise limited in application and except for the provisions of Public Law 109-001 which apply to section 170 of the Internal Revenue Code. The provisions of Public Law 109-001 to accelerate the deduction for charitable cash contributions for the relief of victims of the 2004 Indian Ocean tsunami are applicable for the calendar year that ended December 31, 2004, and the calendar year ending December 31, 2005.

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.”

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

SECTION 3. This Act shall take effect upon its approval and shall apply to taxable years beginning after December 31, 2006; provided that the retroactive and prospective effective dates contained in the congressional acts relating to the Internal Revenue Code and enacted during 2006 shall be operative for chapter 235, Hawaii Revised Statutes.

(Approved May 22, 2007.)

## ACT 85

S.B. NO. 1529

A Bill for an Act Relating to Traffic Infractions.

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

SECTION 1. Section 291-D<sup>1</sup>, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§291D- U-drive vehicles; traffic infractions.** Notwithstanding any other law to the contrary, except those pertaining to the care and maintenance of the vehicle, if the registered owner of record is the lessor of a rental or U-drive motor vehicle, as defined in section 286-2, pursuant to a written lease agreement, the lessee at the time of the issuance of the traffic infraction shall be responsible for such summons or citation; provided that the lessor shall be responsible for such summons or citation if the lessor does not provide the court having jurisdiction over the summons or citation the name and address of the lessee within forty-five days after a notice containing the date, time, and location of the violation and the license number of the vehicle; provided further that if requested by the lessor in writing within forty-five days of such notice of violation other than for parking citations, the administrative judge of the court having jurisdiction over the citation or summons shall waive the requirement of providing the name and address of the lessee by the lessor and impose an administrative fee of \$5 per citation on the lessor, plus costs and fees not to exceed \$10 in total per violation, notwithstanding section 607-4 or other sections of the law, county ordinance, or any rule to the contrary. In the case of parking citations, the administrative judge of the court having jurisdiction over the citation or summons may waive the requirement of providing the name and address of the lessee by the lessor and impose an administrative fee of five dollars per parking citation on the lessor, plus costs and fees not to exceed \$10 in total per such violation, notwithstanding section 607-4 or other sections of the law, county ordinance, or any rule to the contrary.”

SECTION 2. Section 291D-2, Hawaii Revised Statutes, is amended as follows:

1. By adding three new definitions to be appropriately inserted and to read:

““Concurrent trial” means a trial proceeding held in the district or family court in which the defendant is tried simultaneously in a civil case for any charged traffic infraction and in a criminal case for any related criminal offense, with trials to be held in one court on the same date and at the same time.

“Notice of traffic infraction” includes a notice of parking infraction.

“Related criminal offense” means any criminal violation or crime, committed in the same course of conduct as a traffic infraction, for which the defendant is arrested or charged.”

2. By amending the definitions of “hearing”, “traffic infraction”, and “trial” to read:

““Hearing” means a proceeding conducted by the district court pursuant to section 291D-8 at which [a driver either] the person to whom a notice of traffic infraction was issued either admits to the traffic infraction, contests the notice of traffic infraction, or admits to the traffic infraction but offers an explanation to mitigate the monetary assessment imposed.

“Traffic infraction” means all violations of statutes, ordinances, or rules relating to traffic movement and control, including parking, standing, equipment, and pedestrian offenses, for which the prescribed penalties do not include imprisonment[-] and that are not otherwise specifically excluded from coverage of this chapter.

“Trial” means a trial conducted by the district court pursuant to the [Hawaii Rules of Penal Procedure and] rules of the district court[-] and the Hawaii rules of evidence.”

SECTION 3. Section 291D-3, Hawaii Revised Statutes, is amended to read as follows:

“§291D-3 Applicability. (a) Notwithstanding any other provision of law to the contrary, all traffic infractions, including traffic infractions committed by minors, shall be adjudicated pursuant to this chapter, except as provided in subsection (b). This chapter shall be applied uniformly throughout the State and in all counties. No penal sanction that includes imprisonment shall apply to a violation of a state statute or rule, or county ordinance or rule, that would constitute a traffic infraction under this chapter. No traffic infraction shall be classified as a criminal offense.

(b) [No traffic infraction that involves an accident resulting in personal injury or property damage] Where a defendant is charged with a traffic infraction and the infraction is committed in the same course of conduct as a criminal offense for which the offender is arrested or charged, the traffic infraction shall be adjudicated pursuant to this chapter[-, but shall be adjudicated by]; provided that the court may schedule any initial appearance, hearing, or trial on the traffic infraction at the same date, time, and place as the arraignment, hearing, or trial on the related criminal offense.

Notwithstanding this subsection and subsection (c), the court shall not schedule any initial appearance, hearing, or trial on the traffic infraction at the same date, time, and place as the arraignment, hearing, or trial on the related criminal offense where the related criminal offense is a felony or is a misdemeanor for which the defendant has demanded a jury trial.

(c) If the defendant requests a trial pursuant to section 291D-13, the trial shall be held in the [appropriate] district [or circuit] court of the circuit in which the traffic infraction was committed[-, whichever has jurisdiction pursuant to the applicable statute or rules of court]. If the court schedules a concurrent trial pursuant to paragraph (1), the concurrent trial shall be held in the appropriate district or family court of the circuit in which the traffic infraction was committed, whichever has jurisdiction over the related criminal offense charged pursuant to the applicable statute or rule of court; provided that:

(1) The district or family court, for the purpose of trial, may schedule a civil trial on the traffic infraction on the same date and at the same time

as a criminal trial on the related criminal offense charged. The court shall enter a civil judgment as to the traffic infraction and a judgment of conviction or acquittal as to the related criminal offense following such concurrent trial; and

- (2) If trial on the traffic infraction is held separately from and prior to trial on any related criminal offense, the following shall be inadmissible in the prosecution or trial of the related criminal offense, except as expressly provided by the Hawaii rules of evidence:
- (A) Any written or oral statement made by the defendant in proceedings conducted pursuant to section 291D-7(b); and
  - (B) Any testimony given by the defendant in the trial on the traffic infraction.

Such statements or testimony shall not be deemed a waiver of the defendant's privilege against self-incrimination in connection with any related criminal offense.

(d) In no event shall section 701-109 preclude prosecution for a related criminal offense where a traffic infraction committed in the same course of conduct has been adjudicated pursuant to this chapter.

~~[(e)] (e) If the defendant fails to appear [for a traffic infraction which is committed in the same course of conduct as a criminal offense for which the offender is arrested or charged,] at any scheduled court date prior to the date of trial or concurrent trial and:~~

- (1) The defendant's civil liability for the traffic infraction has not yet been adjudicated pursuant to section 291D-8, the court shall enter a judgment by default in favor of the State for the traffic infraction unless the court determines that good cause or excusable neglect exists for the defendant's failure to appear[-The]; or
- (2) The defendant's civil liability for the traffic infraction has been adjudicated previously pursuant to section 291D-8, the judgment earlier entered in favor of the State shall stand unless the court determines that good cause or excusable neglect exists for the defendant's failure to appear.

(f) If the defendant fails to appear at any scheduled court date prior to concurrent trial or fails to appear for concurrent trial scheduled pursuant to subsection (c)(1), the court shall enter a disposition pursuant to the Hawaii rules of penal procedure for the criminal offense."

SECTION 4. Section 291D-5, Hawaii Revised Statutes, is amended to read as follows:

**"§291D-5 Notice of traffic infraction; form; determination final unless contested.** (a) The notice of traffic infraction for moving violations shall include the [complaint and] summons for the purposes of this chapter. Whenever a notice of traffic infraction is issued to the driver of a motor vehicle, the driver's signature, driver's license number, and current address shall be [affixed to] noted on the notice. If the driver refuses to sign the notice[;] of traffic infraction, the officer shall record this refusal on the notice and issue the notice to the driver. Individuals to whom a notice of traffic infraction is issued under this chapter need not be arraigned before the court, unless required by rule of the supreme court.

(b) The form for the notice of traffic infraction shall be prescribed by rules of the district court which shall be uniform throughout the State[-Except in the case of traffic infractions involving parking, the]; provided that each judicial circuit may include differing statutory, rule, or ordinance provisions on its respective notice of traffic infraction.

(c) A notice of traffic infraction that is generated by the use of electronic equipment or that bears the electronically stored image of any person's signature, or both, shall be valid under this chapter.

(d) The notice of traffic infraction shall include the following:

- (1) A statement of the specific traffic infraction[; including a brief statement of facts,] for which the notice was issued;
- (2) Except in the case of parking-related traffic infractions, a brief statement of the facts;
- [(2)] (3) A statement of the total amount to be paid for each traffic infraction, which amount shall include any fee, surcharge, or cost required by statute, ordinance, or rule, and any monetary assessment, established for the particular traffic infraction pursuant to section 291D-9, to be paid by the driver[;] or registered owner of the vehicle, which shall be uniform throughout the State;
- [(3)] (4) A statement of the options provided in section 291D-6(b) for answering the notice and the procedures necessary to exercise the options;
- [(4)] (5) A statement that the person to whom the notice is issued must answer, choosing one of the options specified in section 291D-6(b), within twenty-one days[;] of issuance of the notice;
- [(5)] (6) A statement that failure to answer the notice of traffic infraction within twenty-one days of issuance shall result in the entry of judgment by default for the State and may result in the assessment of a late penalty, and, that if the [driver] person to whom the notice was issued fails to pay the total amount specified in the default judgment within an additional thirty days or to otherwise take action to set aside the default, notice shall be sent to the director of finance of the appropriate county [that]:
  - (A) That the person to whom the notice of infraction not involving parking was issued shall not be permitted to renew or obtain a driver's license; or[; where]
  - (B) Where the notice was issued to a motor vehicle, that the registered owner shall not be permitted to register, renew the registration of, or transfer title to the motor vehicle until the traffic infraction is finally disposed of pursuant to this chapter[;], except as provided in section 291D-10(b);
- [(6)] (7) A statement that, at a hearing requested to contest the notice of traffic infraction conducted pursuant to section 291D-8 [or in consideration of a written statement contesting the notice of traffic infraction], no officer shall be present unless the driver timely requests the court to have the officer present[-The], and that the standard of proof to be applied by the court is whether a preponderance of the evidence proves that the specified traffic infraction was committed;
- [(7)] (8) A statement that, at a hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction or in consideration of a written request for mitigation, the person shall be considered to have committed the traffic infraction;
- [(8)] (9) A space in which the [driver's] signature[-current address, and driver's license number] of the person to whom the notice was issued may be affixed; and
- [(9)] (10) The date, time, and place at which the [driver] person to whom the notice was issued must appear in court, if the [driver] person is required by the notice to [go to] appear in person at the hearing.

~~[(e)]~~ (e) In the case of traffic infractions involving parking~~[,]~~ or equipment, where the motor vehicle is found parked or stopped without a driver, the notice shall be affixed conspicuously to the vehicle as provided in section 291C-167 and shall include the information required by paragraphs (1) and (3) to ~~[(8)]~~ (9) of subsection ~~[(b)]~~ (d).”

SECTION 5. Section 291D-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) A person who receives a notice of traffic infraction shall answer the notice within twenty-one days of the date of issuance of the notice. There shall be included with the notice of traffic infraction a preaddressed envelope directed to the traffic violations bureau of the applicable district court.

(b) ~~[(b)]~~ Provided that the notice of traffic infraction does not require an appearance in person at hearing as set forth in section 291D-5(b)(10), in answering a notice of traffic infraction, a person shall have the following options:

- (1) Admit the commission of the infraction in one of the following ways:
  - (A) By mail or in person, by completing the appropriate portion of the notice of traffic infraction or preaddressed envelope and submitting it to the authority specified on the notice together with payment of the total amount stated on the notice of traffic infraction. Payment by mail shall be in the form of a check, money order, or by an approved credit or debit card. Payment in person shall be in the form of United States currency, check, money order, or by an approved credit or debit card; or
  - (B) Via the Internet or by telephone, by submitting payment of the total amount stated on the notice of traffic infraction. Payment via the Internet or by telephone shall be by an approved credit or debit card;
- (2) Deny the commission of the infraction and request a hearing to contest the infraction by completing the appropriate portion of the notice of traffic infraction or preaddressed envelope and submitting it, either by mail or in person, to the authority specified on the notice. In lieu of appearing in person at a hearing, the person may submit a written statement of grounds on which the person contests the notice of traffic infraction, which shall be considered by the court as a statement given in court pursuant to section 291D-8(a); or
- (3) Admit the commission of the infraction and request a hearing to explain circumstances mitigating the infraction by completing the appropriate portion of the notice of traffic infraction or preaddressed envelope and submitting it, either by mail or in person, to the authority specified on the notice. In lieu of appearing in person at a hearing, the person may submit a written explanation of the mitigating circumstances, which shall be considered by the court as a statement given in court pursuant to section 291D-8(b).”

SECTION 6. Section 291D-7, Hawaii Revised Statutes, is amended to read as follows:

“**§291D-7 Court action after answer or failure to answer.** (a) When an admitting answer is received, the court ~~[shall review the driver’s abstract. The court]~~ shall enter judgment in favor of the State in the total amount specified in the notice of traffic infraction. If the total amount is not submitted with the answer, the court ~~[shall]~~ may take action as provided in section 291D-10.

(b) When a denying answer is received, the court shall proceed as follows:

(1) In the case of a traffic infraction [~~that does not involve parking~~] where the person requests a hearing at which the person will appear in person to contest the infraction, the court shall notify the person in writing of the date, time, and place of hearing to contest the notice of traffic infraction. The notice of hearing shall be [sent] mailed to the address stated in the denying answer, or if none is given, to the address stated on the notice of traffic infraction. The notification also shall advise the person that, if the person fails to appear at the hearing, the court shall enter judgment by default in favor of the State, as of the date of the scheduled hearing, that the total amount specified in the default judgment must be paid within thirty days [from notice] of entry of default[;] judgment, and, if it is not paid, that the court shall take action as provided in section 291D-10;

~~[(2) In the case of a traffic infraction that involves parking, the court shall notify the person or registered owner or owners in writing of the date, time, and place of hearing to contest the notice of traffic infraction. The notice of hearing shall be sent to the address stated in the denying answer or, if none is given, to the address at which the vehicle is registered. The notification also shall advise the person that, if the person fails to appear at the hearing, the court shall enter judgment by default in favor of the State, as of the date of the scheduled hearing, that the total amount specified in the default judgment shall be paid within thirty days from notice of default, and, if it is not paid, that the court shall take action as provided in section 291D-10;] and~~

[(3)] (2) When a denying answer is accompanied by a written statement of the grounds on which the person contests the notice of [the] traffic infraction, the court shall proceed as provided in section 291D-8(a) and shall notify the person of its decision, including the total amount assessed, if any, by mailing [it] the notice of entry of judgment within [thirty] forty-five days of the postmarked date of the answer to the address provided by the person in the denying answer, or if none is given, to the address given when the notice of traffic infraction was issued or, in the case of parking violations, [to the address stated in the denying answer or, if none is given,] to the address at which the vehicle is registered. The [decision] notice of entry of judgment also shall advise the person, if it is determined that the infraction was committed[;] and judgment is entered in favor of the State, that the person has the right, within thirty days[;] of entry of judgment, to request a trial and shall specify the procedures for doing so. The notice of [decision] entry of judgment shall also notify the person, if an amount is assessed by the court for [fines,] monetary assessments, fees, surcharges, or costs[; or monetary assessments], that if the person does not request a trial[;] within the time specified in this paragraph, the total amount assessed shall be paid within thirty days[-] of entry of judgment. The notice of entry of judgment shall [warn] inform the person that if the total amount is not paid within thirty days, the court shall take action as provided in section 291D-10.

(c) When an answer admitting commission of the infraction but seeking to explain mitigating circumstances is received, the court shall proceed as follows:

(1) In the case of a traffic infraction [~~which does not involve parking~~] where the person requests a hearing at which the person will appear in person to explain mitigating circumstances, the court shall notify the person in writing of the date, time, and place of hearing to explain

mitigating circumstances. The notice of hearing shall be ~~[sent]~~ mailed to the address stated in the answer, or if none is given, to the address stated on the notice of traffic infraction. The notification also shall advise the person that, if the person fails to appear at the hearing, the court shall enter judgment by default in favor of the State, as of the date of the scheduled hearing, that the total amount stated in the default judgment ~~[shall]~~ must be paid within thirty days ~~[from notice]~~ of entry of default~~[,]~~ judgment, and, if it is not paid, that the court shall take action as provided in section 291D-10;

~~[(2) In the case of a traffic infraction which involves parking, the court shall notify the person in writing of the date, time, and place of the hearing. The notice shall be sent to the address at which the vehicle is registered. The notice of hearing on mitigating circumstances shall advise the person that the court shall enter judgment for the State and the hearing shall be limited to an explanation of the mitigating circumstances. The notice of hearing also shall state that if the person fails to appear at the hearing, the total amount specified in the default judgment shall be paid within thirty days of the scheduled hearing. The notice of hearing shall warn the person that if the total amount is not paid within thirty days, the court shall take action as provided in section 291D-10;]~~ and

~~[(3) (2) If a written explanation is included with an answer admitting commission of the infraction, the court shall enter judgment for the State and, after reviewing the explanation, determine the total amount of the [fines,] monetary assessments, fees, surcharges, or costs~~[, or monetary assessments]~~ to be assessed, if any. The court shall then notify the person of the total amount to be paid for the infraction, if any. There shall be no appeal from the ~~[order.]~~ judgment. If the court assesses an amount for [fines,] monetary assessments, fees, surcharges, or costs~~[, or monetary assessments]~~, the court shall also notify the person that the total amount shall be paid within thirty days of [the postmarked date of the decision.] entry of judgment. The notice of entry of judgment also shall ~~[warn]~~ inform the person that if the total amount is not paid within thirty days, the court shall take action as provided in section 291D-10.~~

(d) If the person fails to answer within twenty-one days of issuance of the notice of traffic infraction, the court shall take action as provided in subsection (e).

(e) Whenever judgment by default in favor of the State is entered, the court shall mail a notice of entry of default judgment ~~[of default]~~ to the address provided by the person when the notice of traffic infraction was issued or, in the case of parking ~~[violations,]~~ infractions, to the address stated in the answer, if any, or the address at which the vehicle is registered. The notice of entry of default judgment shall advise the person that the total amount specified in the default judgment shall be paid within thirty days of entry of default judgment and shall explain the procedure for setting aside a default judgment. The notice of entry of default judgment shall also ~~[warn]~~ inform the person that if the total amount is not paid within thirty days, the court shall take action as provided in section 291D-10. Judgment by default for the State entered pursuant to this chapter may be set aside pending final disposition of the traffic infraction upon written application of the person and posting of an appearance bond equal to the amount of the total amount specified in the default judgment and any other assessment imposed pursuant to section 291D-9. The application shall show good cause or excusable neglect for the person's failure to take action necessary to prevent entry of judgment by default. Upon receipt of the application~~[,]~~ and required appearance bond, the court shall take action to remove the restriction placed on the person's driver's license or the motor

vehicle's registration and title imposed pursuant to section 291D-10. Thereafter, the court shall determine whether good cause or excusable neglect exists for the person's failure to take action necessary to prevent entry of judgment by default. If so, the application to set aside default judgment shall be granted, the default judgment shall be set aside, and the notice of traffic infraction shall be disposed of pursuant to this chapter. If not, the application to set aside default judgment shall be denied, the appearance bond shall be forfeited and applied to satisfy amounts due under the default judgment, and the notice of traffic infraction shall be finally disposed. In either case, the court~~[, within thirty days,]~~ shall determine the existence of good cause or excusable neglect and notify the person of its decision on the application in writing."

SECTION 7. Section 291D-8, Hawaii Revised Statutes, is amended to read as follows:

**"§291D-8 Hearings.** (a) In proceedings to contest ~~[the issuance of]~~ a notice of traffic ~~[infractions:]~~ infraction where the person to whom the notice was issued has timely requested a hearing and appears at such hearing:

- (1) In lieu of the personal appearance by the officer who issued the notice of traffic infraction, the court shall consider the notice of traffic infraction and any other written report made by the officer, if provided to the court by the officer, together with any oral or written statement by the [driver,] person to whom the notice of infraction was issued, or in the case of traffic infractions involving parking[.] or equipment, the operator or registered owner of the motor vehicle;
- (2) The court may compel by subpoena the attendance of the officer who issued the notice of traffic infraction and other witnesses from whom it may wish to hear;
- (3) The standard of proof to be applied by the court shall be whether, by a preponderance of the evidence [proves that], the court finds that the traffic infraction was committed; and
- (4) After due consideration of the evidence and arguments, if any, the court shall determine whether commission of the traffic infraction has been established. Where the commission of the traffic infraction has not been established, [an order] judgment in favor of the defendant, dismissing the notice of traffic infraction or any count therein with prejudice, shall be entered in the ~~[records-] record~~. Where it has been established that the traffic infraction was committed, the court shall enter judgment ~~[for] in favor of~~ the State and ~~[may] shall~~ assess a monetary assessment pursuant to section 291D-9~~[,]~~, together with any fees, surcharges, or costs. The court also shall inform the person of the right to request~~[, within thirty days,]~~ a trial pursuant to section 291D-13. If the person requests a trial at the time of the hearing, the court shall provide the person with the trial date ~~[forthwith. If trial is elected, arraignment and plea shall be held at the time of trial.]~~ as soon as practicable.

(b) In proceedings to explain mitigating circumstances~~[:]~~ where the person to whom the notice of traffic infraction was issued has timely requested a hearing and appears at such hearing:

- (1) The procedure ~~[shall be informal and]~~ shall be limited to the issue of mitigating circumstances. A person who requests to explain the circumstances shall not be permitted to contest the ~~[issuance of]~~ the notice of traffic infraction; ~~[and]~~

- (2) After the court has received the explanation, the court shall enter judgment ~~[for]~~ in favor of the State and may assess a monetary assessment~~;~~ pursuant to section 291D-9~~;~~ ~~and~~, together with any fees, surcharges, or costs;
- (3) The court, after receiving the explanation, may vacate the admission and ~~[dismiss]~~ enter judgment in favor of the defendant, dismissing the notice of traffic infraction or any count therein with prejudice, where the explanation establishes that the infraction was not committed; and
- (4) There shall be no appeal from the ~~[order.]~~ judgment.
- (c) If a person for whom a hearing has been scheduled, to contest the notice of traffic infraction or ~~[a hearing]~~ to explain mitigating circumstances, fails to appear at the hearing, the court shall enter judgment by default for the State and take action as provided in section 291D-7(e). If the total amount of the monetary assessment, fees, surcharges, or costs is not paid within thirty days~~;~~ of entry of default judgment, the court shall take action as provided in section 291D-10.”

SECTION 8. Section 291D-12, Hawaii Revised Statutes, is amended to read as follows:

**“§291D-12 Powers of the district court judge sitting in the traffic division.** A district court judge sitting in the traffic division and hearing cases pursuant to this chapter shall have all the powers of a district court judge under chapter 604, including the following powers:

- (1) To conduct traffic infraction hearings and to impose monetary assessments;
  - (2) To permit deferral of monetary assessment or impose community service in lieu thereof;
  - (3) To dismiss a notice of traffic infraction, with or without prejudice, or to set aside a judgment for the State;
  - (4) To order temporary driver’s license suspension or driver’s license reinstatement;
  - (5) To order the director of finance not to issue or renew the driver’s license, or to register, renew the registration of, or issue title to a motor vehicle, of any person who has not paid a monetary assessment ~~[or]~~, has not performed community service in lieu thereof~~;~~, or has not otherwise satisfied a judgment for the State entered pursuant to this chapter;
  - (6) To approve the issuance or renewal of a driver’s license or instruction permit pursuant to section 286-109(c);
  - (7) To issue penal summonses and bench warrants and initiate contempt of court proceedings in proceedings conducted pursuant to section 291D-13; ~~[and]~~
  - (8) To issue penal summonses and bench warrants and initiate failure to appear proceedings in proceedings conducted pursuant to section 291D-5(d)(10); and
- [~~(8)~~] (9) To exercise other powers the court finds necessary and appropriate to carry out the purposes of this chapter.”

SECTION 9. Section 291D-13, Hawaii Revised Statutes, is amended to read as follows:

**“§291D-13 Trial~~[-]~~ and concurrent trial.** (a) There shall be no right to trial unless the defendant contests the notice of traffic infraction pursuant to section 291D-8. If, after proceedings to contest the notice of traffic infraction, a deter-

mination is made that ~~[a person]~~ the defendant committed the traffic infraction, ~~[the person] judgment shall enter in favor of the State. The defendant may request[, within thirty days of the determination,] a trial pursuant to the [rules of penal procedure] Hawaii rules of evidence and the rules of the district court[; provided that arraignment and plea for such trial shall be held at the time of trial.]; provided that any request for trial shall be made within thirty days of entry of judgment. If, after appearing in person at a hearing to contest the notice of traffic infraction, the person requests a trial at the conclusion of the [proceedings to contest the notice of traffic infraction,] hearing, the court shall provide the person with the trial date [forthwith. A notice of traffic infraction shall not be adjudicated pursuant to this section until proceedings pursuant to section 291D-8 have been completed.] as soon as practicable.~~

(b) ~~[The result of the final determination or any admission made pursuant to section 291D-6 shall not be admissible in any trial conducted pursuant to section 291D-13.]~~ At the time of trial, the State shall be represented by a prosecuting attorney of the county in which the infraction occurred. The prosecuting attorney shall orally recite the charged civil traffic infraction in court prior to commencement of the trial. Proof of the defendant's commission of the traffic infraction shall be by a preponderance of the evidence.

(c) If trial on the traffic infraction is held prior to trial on any related criminal offense, the following shall be inadmissible in the subsequent prosecution or trial of the related criminal offense:

- (1) Any written or oral statement made by the defendant in proceedings conducted pursuant to section 291D-7(b); and
- (2) Any testimony given by the defendant in the traffic infraction trial.

The statement or testimony, or both, shall not be deemed a waiver of the defendant's privilege against self-incrimination in connection with any related criminal offense.

(d) In any concurrent trial, the State shall be represented by a prosecuting attorney of the county in which the infraction and related crime occurred. Proof of the defendant's commission of the infraction shall be by a preponderance of the evidence, and proof of the related criminal offense shall be by proof beyond a reasonable doubt. The concurrent trial shall be conducted pursuant to the rules of the appropriate court, the Hawaii rules of evidence, and the Hawaii rules of penal procedure.”

SECTION 10. Section 291D-14, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]§291D-14[.]~~ **Rules.** (a) The supreme court may adopt rules of procedure for the conduct of all proceedings pursuant to this chapter.

(b) Chapter 626 shall not apply in proceedings conducted pursuant to this chapter, except for the rules governing privileged communications, and proceedings conducted under section 291D-13.

(c) Notwithstanding section 604-17, while the court is sitting in any matter pursuant to this chapter, the court shall not be required to preserve the testimony or proceedings, except proceedings conducted pursuant to section 291D-13[.] and proceedings in which the traffic infraction is heard on the same date and time as any related criminal offense.

(d) The prosecuting attorney shall not participate in traffic infraction proceedings conducted pursuant to this chapter, except proceedings pursuant to section 291D-13[.] and proceedings in which a related criminal offense is scheduled for arraignment, hearing, or concurrent trial.

(e) Chapter 91 shall not apply in proceedings before the court.

(f) Except as otherwise provided in section 291D-3, chapter 571, and the Hawaii family court rules shall not apply in any proceedings conducted pursuant to this chapter.”

SECTION 11. Section 437D-17.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[(H)§437D-17.5(H)] Rental agreements; unpaid [parking citations] traffic infractions.~~ Pursuant to section ~~[291C-168.5,] 291D-~~ , or other sections of the law and except for summons, citations, or violations relating to the care and maintenance of a rental motor vehicle, the lessor, as the registered owner of the rental motor vehicle, may be responsible for fines ~~[or], costs, penalties, fees, or other charges~~ related to ~~[parking citations.] traffic infractions of a motor vehicle while being leased or rented to a lessee.~~ The lessor may adopt a policy of charging the lessee the actual ~~[cost of the parking citation] amount paid for the traffic infractions to the court or other state government agency or county government plus an administrative fee not to exceed ~~[\$20;] out-of-pocket expenses documented by receipts plus up to four hours of work multiplied by Hawaii’s prevailing minimum wage relating to research of files and communications with the court, county government or governmental agencies and lessee;~~ provided~~[-, however,]~~ that every rental agreement of a lessor adopting the policy must disclose, at a minimum, in plain language and in at least ten-point bold typeface print:~~

- (1) The ~~maximum estimated~~ amount of the administrative fee to be charged; and
- (2) Language encouraging the lessee to pay ~~directly to the court, county government or other appropriate government agency~~ the ~~[parking citation directly-] applicable fines, costs, monetary assessments, penalties, fees, surcharges, or other charges.~~”

SECTION 12. Section 291C-168.5, Hawaii Revised Statutes, is repealed.

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

SECTION 14. This Act shall take effect on January 1, 2008.

(Approved May 22, 2007.)

#### Notes

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

## ACT 86

H.B. NO. 211

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Not-For-Profit Corporations that Provide Health Care Facilities to the General Public.

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

SECTION 1. Act 176, Session Laws of Hawaii 2003, is amended by amending sections 4 and 5 to read as follows:

## ACT 87

“SECTION 4. The department of budget and finance is authorized, from time to time, including time subsequent to June 30, [2008,] 2013, to issue special purpose revenue bonds in whatever principal amounts the department of budget and finance shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and any refunding of 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 or whether 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 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, [2008,] 2013.”

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

SECTION 3. This Act shall take effect on June 29, 2008.

(Approved May 23, 2007.)

## ACT 87

S.B. NO. 56

A Bill for an Act Relating to Jury Service.

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

SECTION 1. Section 612-6, Hawaii Revised Statutes, is amended to read as follows:

“**§612-6 Exempt when.** A person may claim exemption from service as a juror if the person is:

- (1) An elected official while the legislature is in session, or a judge of the United States, State, or county;
- (2) An [~~active~~] actively practicing physician[;] or dentist;
- (3) A member of the armed forces or militia when on active service and deployed out-of-state;
- (4) An active member of a police or fire department;
- (5) A person who has served as a juror, either in a court of this State or the United States District Court for the District of Hawaii, within one year preceding the time of filling out the juror qualification form;
- (6) An active member of an emergency medical services agency;
- (7) A person living more than seventy miles from the court for which jury service is required; or
- (8) A person eighty years of age or older.

For purposes of this section, “emergency medical services agency” means any government agency, private agency, or company that provides ambulance services, emergency medical services, or disaster medical services.”

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

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

(Approved May 23, 2007.)

## ACT 88

H.B. NO. 1253

A Bill for an Act Relating to the Hawaii Rules of Evidence.

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

SECTION 1. Section 626-1, Hawaii Revised Statutes, is amended by adding to Article IV a new rule to be appropriately designated and to read as follows:

**“Rule Admissibility of expressions of sympathy and condolence. Evidence of statements or gestures that express sympathy, commiseration, or condolence concerning the consequences of an event in which the declarant was a participant is not admissible to prove liability for any claim growing out of the event. This rule does not require the exclusion of an apology or other statement that acknowledges or implies fault even though contained in, or part of, any statement or gesture excludable under this rule.”**

SECTION 2. This Act does not affect the rights or duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. New statutory material is underscored.

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

(Approved May 23, 2007.)

## ACT 89

S.B. NO. 798

A Bill for an Act Relating to Disaster Relief.

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

SECTION 1. Act 118, Session Laws of Hawaii 2006, is amended by amending section 26 to read as follows:

**“SECTION 26. Any provision of this Act to the contrary notwithstanding, the appropriations authorized under this Act shall not lapse at the end of the fiscal year for which the appropriations were made. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, [2007,] 2008, shall lapse.”**

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

SECTION 3. This Act shall take effect on June 29, 2007.

(Approved May 23, 2007.)

A Bill for an Act Relating to the Hospital and Medical Facilities Special Fund.

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

SECTION 1. Section 321-1.4, Hawaii Revised Statutes, is amended by amending the title and subsections (a) and (b) to read as follows:

**“§321-1.4 [Hospital and medical facilities] Office of health care assurance special fund; deposits; expenditures.** (a) There is established within the department of health, to be administered by the department of health, the [hospital and medical facilities] office of health care assurance special fund into which shall be deposited<sup>1</sup> moneys collected under section 321-11.5(b)[-] and all administrative penalties imposed and collected by the office of health care assurance pursuant to section 321-20.

(b) Moneys in the special fund shall be expended by the department of health:

- (1) To assist in offsetting operating costs and educational program expenses of the [department’s hospital and medical facilities branch; department of health’s office of health care assurance; and
- (2) For the purpose of enhancing the capacity of [hospital and medical facilities] office of health care assurance programs to:
  - (A) Improve public health outreach efforts, program and community development, and consultations to industries regulated; and
  - (B) Educate the public, the staff of the department of health, [hospitals, nursing homes, and care homes, and industries] other departments within the State, as well as staff and providers of all health care facilities and agencies regulated.

Not more than [\$230,000] \$300,000 of the special fund may be used during any fiscal year for [education-] the activities carried out by the office of health care assurance.”

SECTION 2. Section 321-11.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) All fees paid and collected pursuant to this section and rules adopted in accordance with chapter 91 from facilities seeking licensure or certification by the department of health, including hospitals, nursing homes, home health agencies, intermediate care facilities for the mentally retarded, freestanding outpatient surgical facilities, adult day health care centers, rural health centers, laboratories, adult residential care homes, expanded adult residential care homes, developmental disability domiciliary homes, assisted living facilities, therapeutic living programs, and special treatment facilities, shall be deposited into the [hospital and medical facilities] office of health care assurance special fund created under section 321-1.4. Any other entities required by law to be licensed by the department of health shall also be subject to reasonable fees established by the department of health by rules adopted in accordance with chapter 91.”

SECTION 3. Section 321-15.6, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Any fines collected by the department of health for violations of this section shall be deposited into the [general] office of health care assurance special fund.”

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

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

(Approved May 23, 2007.)

**Note**

1. Prior to amendment "all" appeared here.

**ACT 91**

S.B. NO. 1675

A Bill for an Act Relating to Automated External Defibrillators.

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

SECTION 1. Section 453-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Nothing herein shall:

- (1) Apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery;
- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States armed forces or public health service engaged in the discharge of one's official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation, including but not limited to [;] in-person, mail, electronic, telephonic, fiber-optic, or other telemedicine consultation with a licensed physician of this State, if the physician from another state at the time of such consultation is licensed to practice in the state in which the physician resides; provided that:
  - (A) The physician from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and
  - (B) The licensed physician of this State retains control and remains responsible for the provision of care for the patient; and provided further that the laws and regulations relating to contagious diseases are not violated;
- (4) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs a person certified under part II of this chapter to provide emergency medical services, or physician assistant, shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such person or physician assistant; or
- (5) Prohibit [~~automatie~~] automated external defibrillation by:

- (A) Any first responder personnel certified by the department of health to provide [~~automatic~~] automated external defibrillation when it is rendered under the medical oversight of a physician licensed in this State; or
- (B) Any person [~~who successfully completes training under an automatic external defibrillator program administered by a physician. An "automatic external defibrillator program" means an appropriate training course that includes cardiopulmonary resuscitation and proficiency in the use of an automatic external defibrillator.]~~ acting in accordance with section 663-1.5(e)."

SECTION 2. Section 663-1.5, Hawaii Revised Statutes, is amended by amending subsections (e) and (f) to read as follows:

~~"(e) Any person who [successfully completes training under any automatic external defibrillator program administered by a physician shall not be liable for any civil damages resulting from any act or omission while attempting]~~ in good faith, without remuneration or expectation of remuneration, attempts to resuscitate a person in immediate danger of loss of life when administering any [~~automatic~~] automated external defibrillator, regardless of where the [~~automatic~~] automated external defibrillator that is used is located, shall not be liable for any civil damages resulting from any act or omission except as may result from the person's gross negligence or wanton acts or omissions.

Any person, including an employer, who [~~establishes~~] provides for an [~~automatic~~] automated external defibrillator [~~program~~] shall not be vicariously liable for any civil damages resulting from any act or omission of the persons or employees [~~trained under the program~~] who, in good faith and without remuneration or the expectation of remuneration, attempt to resuscitate a person in immediate danger of loss of life by administering an [~~automatic~~] automated external defibrillator[-], except as may result from a person's or employer's gross negligence or wanton acts or omissions.

(f) Any physician who administers an [~~automatic~~] automated external defibrillator program without remuneration or expectation of remuneration shall not be liable for any civil damages resulting from any act or omission involving the use of an [~~automatic~~] automated external defibrillator, except as may result from the physician's gross negligence or wanton acts or omissions."

SECTION 3. Section 663-1.5, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

~~"(h) For the purposes of this section:~~

~~"[Automatic] Automated external defibrillator program" [shall have the meaning provided in section 453-2(b)(5)(B).]~~ means an appropriate training course that includes cardiopulmonary resuscitation and proficiency in the use of an automated external defibrillator.

~~"Good faith" includes but is not limited to a reasonable opinion that the immediacy of the situation is such that the rendering of care should not be postponed.~~

~~"Rescue team" means a special group of physicians, basic life support personnel, advanced life support personnel, surgeons, nurses, volunteers, or employees of the owners or operators of the hospital or authorized emergency vehicle who have been trained in basic or advanced life support and have been designated by the owners or operators of the hospital or authorized emergency vehicle to attempt to provide such support and resuscitate persons who are in immediate danger of loss of life in cases of emergency."~~

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

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

(Approved May 23, 2007.)

## ACT 92

H.B. NO. 1044

A Bill for an Act Relating to Prescription Drugs.

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

SECTION 1. Act 241, Session Laws of Hawaii 2005, added a new part to chapter 346, Hawaii Revised Statutes, entitled “Medicaid Preauthorization Exemption”, which consists of two sections codified as sections 346-351 and 346-352, Hawaii Revised Statutes, and which exempts physicians prescribing immunosuppressant medication under medicaid from preauthorization procedures. However, section 346-352, Hawaii Revised Statutes, excludes QUEST medical plans from this exemption and thereby restricts access of QUEST medicaid recipients to immunosuppressant medication.

The purpose of this Act is to delete the QUEST medical plans exclusion in section 346-352, Hawaii Revised Statutes. Deletion of this exclusion will provide equal access to medications for medicaid clients who suffer from human immunodeficiency virus, acquired immune deficiency syndrome, or hepatitis C, or who need immunosuppressives as a result of organ transplants, regardless of whether they are in the medicaid fee-for-service or the medicaid QUEST program.

SECTION 2. Section 346-352, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§346-352**~~]]~~ **Preauthorization exemption for certain physicians.** Any physician licensed in this State who treats a medicaid recipient patient suffering from the human immunodeficiency virus, acquired immune deficiency syndrome, or hepatitis C, or who is a patient in need of transplant immunosuppressives, may prescribe any medications approved by the United States Food and Drug Administration and that are eligible ~~[for]~~ pursuant to the Omnibus Budget Reconciliation Rebates Act ~~[(OBRA), that are]~~ and necessary to treat the condition, without having to comply with the requirements of any preauthorization procedure established by any other provision of this chapter. ~~[This section shall not apply to QUEST medical plans.]~~”

SECTION 3. The department of human services shall prepare and submit an economic impact assessment report, including findings, recommendations, and any proposed legislation, to the legislature no later than twenty days prior to the convening of the 2010, 2011, and 2012 regular sessions. The economic impact assessment report shall include information obtained from insurance providers who provide medicaid and QUEST coverage on the additional costs incurred as a result of providing access to immunosuppressant medication to QUEST patients suffering from the conditions as described in section 346-352, Hawaii Revised Statutes.

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

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SECTION 5. This Act shall take effect on January 1, 2008, and shall be repealed on July 1, 2013; provided that section 346-352, Hawaii Revised Statutes, shall be reenacted in the form in which it read on December 31, 2007.

(Approved May 23, 2007.)

## ACT 93

H.B. NO. 807

A Bill for an Act Relating to Caregiving.

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

SECTION 1. The executive office on aging's long-term care ombudsman program is mandated by the United States Administration on Aging through the Older Americans Act. The state long-term care ombudsman currently advocates for and protects the rights of residents of nursing homes, adult residential care homes, assisted living facilities, and other long-term care facilities. However, there is no statutory provision for the establishment of an office of the long-term care ombudsman.

The long-term care ombudsman investigates and resolves problems or complaints about the caregiving or services provided in long-term care facilities. The long-term care ombudsman also works with long-term care facilities, community organizations, residents, family councils, and other interested parties to improve the quality of caregiving and quality of life of long-term care residents. In addition, the long-term care ombudsman provides information, referrals, and consultations to families, service providers, and the general public on long-term caregiving issues. The program is staffed by the long-term care ombudsman, one long-term care ombudsman specialist, and one volunteer coordinator. The long-term care ombudsman program serves over eight thousand residents in approximately seven hundred thirty-one licensed facilities statewide.

The purpose of this Act is to formally establish an office of the long-term care ombudsman within the executive office on aging.

SECTION 2. Chapter 349, Hawaii Revised Statutes, is amended by adding two new sections to part II to be appropriately designated and to read as follows:

**“§349- Wilful interference; prohibited.** Any individual, including any long-term care facility or long-term care facility employee, who wilfully interferes with or impedes the long-term care ombudsman or designee in the performance of the long-term care ombudsman's or designee's duties pursuant to this part shall be guilty of a misdemeanor. Each separate act of wilful interference and each day during which any wilful interference continues shall constitute a separate offense.

**§349- Posting and distribution of information.** (a) The long-term care ombudsman shall provide each long-term care facility with brochures and a poster with information regarding the office of the long-term care ombudsman, including the name, address, and telephone number of the office of the long-term care ombudsman, and a brief description of the services provided by the office of the long-term care ombudsman.

(b) A long-term care facility shall provide each resident of the long-term facility with a copy of the brochure and shall post the poster in a conspicuous location that is accessible to all residents of the long-term care facility.”

SECTION 3. Chapter 349, Hawaii Revised Statutes, is amended by designating sections 349-1 to 349-11, Hawaii Revised Statutes, as part I and adding a title before section 349-1, Hawaii Revised Statutes, to read as follows:

**“PART I. GENERAL PROVISIONS”**

SECTION 4. Chapter 349, Hawaii Revised Statutes, is amended by designating sections 349-12 to 349-14, Hawaii Revised Statutes, as part II and adding a title before section 349-12, Hawaii Revised Statutes, to read as follows:

**“PART II. OFFICE OF THE LONG-TERM CARE OMBUDSMAN”**

SECTION 5. Section 349-12, Hawaii Revised Statutes, is amended to read as follows:

~~“§349-12 [Long-term care facilities. (a) For purposes of this chapter, the term “long-term care facilities” means any skilled nursing facility as defined in section 1861(j) of the Social Security Act, as amended, any intermediate care facility as defined in section 1905(c) of the Social Security Act, as amended, any nursing home as defined in section 1908(e) of the Social Security Act, as amended, and any other similar adult care facility licensed by the State serving elders.~~

(b) The executive office on aging shall have the responsibility to represent] **Office of the long-term care ombudsman. (a) There is established the office of the long-term care ombudsman in the executive office on aging to protect the health, safety, welfare, and rights of residents of long-term care facilities in accordance with state and federal law. The office of the long-term care ombudsman shall be headed by the long-term care ombudsman.**

(b) The long-term care ombudsman shall:

- (1) Be hired pursuant to chapter 76;
- (2) Be free of conflict of interest;
- (3) Have expertise and experience in the fields of long-term care and advocacy;
- (4) Serve on a full-time basis; and
- (5) Prepare an annual report in accordance with the federal Older Americans Act, as amended.

(c) The long-term care ombudsman, personally or through a designee, shall:

- (1) Represent the interests of residents of long-term care facilities, individually and as a class, [and] to [promote]:
  - (A) Protect their health, safety, welfare, and rights; and
  - (B) Promote improvement in the quality of care [received] they receive and [the] their quality of life [experienced by residents of long-term care facilities within the State. In meeting this responsibility, the executive office on aging shall:
- (1) Perform its duties and functions either directly or by other arrangement executed by the director with any public or private nonprofit organization, except with any organization responsible for licensing or certifying long-term care facilities in the State or which is engaged in offering long-term care services or which is an association (or an affiliate of such an association) of long-term care facilities];
- (2) [Investigate] Identify, investigate, and resolve complaints, including complaints against providers of long-term care services and their representatives, made by or on behalf of residents of long-term care facilities relating to [acts which] actions, inactions or decisions that may adversely affect the health, safety, welfare, [and] or rights of residents[;]

- of long-term care facilities, including the appointment and activities of guardians and representative payees;
- (3) Monitor and comment on the development and implementation of federal, state, and local laws, regulations, [and] policies [affecting], and actions that pertain to the health, safety, welfare, or rights of residents of long-term care facilities, including the adequacy of long-term care facilities and services in the [State] state, and recommend changes as necessary;
  - (4) Provide information as appropriate to public agencies regarding the problems of [older persons residing in] residents of long-term care facilities;
  - (5) Train volunteers [or] and employees [to serve institutionalized elders and to promote];
  - (6) Promote the development of citizen organizations to participate in the advocacy program;
  - ~~(6)~~ (7) Establish procedures for appropriate access by the [executive office on aging] long-term care ombudsman to long-term care facilities[;] and to residents of long-term care facilities;
  - ~~(7)~~ (8) Establish procedures for appropriate access by the [executive office on aging] long-term care ombudsman to all [patient] resident records or portions thereof necessary for the [executive office on aging] long-term care ombudsman to evaluate the merits of a specific complaint or complaints; provided that [patient] resident records shall be divulged only with the written consent of the [patient] resident or the [patient's] resident's legal representative;
  - ~~(8)~~ (9) Establish procedures for appropriate access to files maintained by the [executive office on aging,] long-term care ombudsman, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed unless:
    - (A) [Such] The complainant or resident, or the complainant's or resident's legal representative, consents in writing to [such] the disclosure; [or]
    - (B) [Such] The complainant or resident consents orally and the consent is documented contemporaneously in writing by the long-term care ombudsman or designee; or
    - (C) The disclosure is required by court order[-];
  - (10) Provide technical support for the development of resident and family councils to help protect the health, safety, welfare, and rights of residents of long-term care facilities;
  - (11) Provide residents of long-term care facilities with:
    - (A) Information regarding how to obtain necessary services;
    - (B) Regular access to the office of the long-term care ombudsman at times deemed reasonable and necessary by the long-term care ombudsman; and
    - (C) Regular and timely responses to their complaints;
  - (12) Seek administrative, legal, or other remedies to carry out this part; and
  - (13) Carry out all other responsibilities as provided by state or federal law.
- (d) The long-term care ombudsman shall establish procedures to ensure that all designees, employees, and volunteers are free of conflict of interest.
- (e) The long-term care ombudsman shall adopt rules pursuant to chapter 91 for the purposes of administering and implementing this part.
- (f) For the purposes of this part:  
"Conflict of interest" includes:

- (1) Any direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;
- (2) An ownership or investment interest in a long-term care facility or a long-term care service;
- (3) Employment by, or participation in the management of, a long-term care facility; and
- (4) Receipt of, or the right to receive, directly or indirectly, remuneration under a compensation arrangement with an owner or operator of a long-term care facility.

“Long-term care facility” means any:

- (1) Skilled nursing facility as defined in section 1819(a) of the Social Security Act, as amended;
- (2) Nursing facility, as defined in section 1919(a) of the Social Security Act, as amended;
- (3) Adult residential care home, including any expanded adult residential care home;
- (4) Assisted living facility;
- (5) Intermediate care facility as defined in section 1905(c) of the Social Security Act, as amended; and
- (6) Other similar facility licensed by the State serving elders.’’

SECTION 6. Section 349-13, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]§349-13[H]~~ **Access to long-term care facilities.** (a) ~~[Any]~~ A long-term care facility [which receives public funds] shall permit immediate access to the long-term facility and to the residents of the long-term care facility to the [executive office on aging in] long-term care ombudsman or designee at any time deemed necessary and reasonable by the long-term care ombudsman for the performance of [its] the duties and functions under this [chapter.] part.

(b) Access to the residents of the long-term care facility shall include the provision of privacy.

(c) A long-term care facility shall permit access by the long-term care ombudsman or designee to all resident records or portions thereof necessary for the long-term care ombudsman to evaluate the merits of any complaint; provided that resident records shall be divulged only with the written consent of the resident or the resident’s legal representative.

(d) The long-term care ombudsman shall report violations of this section to the department of health.

(e) The department of health shall adopt rules, including the establishment of administrative fines or other penalties, pursuant to chapter 91 for the violation of this section.’’

SECTION 7. Section 349-14, Hawaii Revised Statutes, is amended to read as follows:

“**§349-14 Retaliatory acts by facilities or facility employees prohibited.**

(a) No resident of a long-term care facility seeking advocacy assistance as provided for in section 349-12 or making a complaint concerning a long-term care facility or any of its employees shall be subject to any retaliatory act by the long-term care facility or any of its employees for seeking advocacy assistance or making a complaint[; provided that for].

(b) No person seeking advocacy assistance as provided for in section 349-12 or making a complaint concerning a long-term care facility or any of its employees

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on behalf of a resident of a long-term care facility shall be subject to any retaliatory act by the long-term care facility or any of its employees for seeking advocacy assistance or making a complaint.

(c) For the purposes of this [chapter,] section, the term ‘retaliatory act’ [shall include, but not be limited to,] includes actual or threatened physical injury, psychological abuse or neglect, sexual abuse, negligent treatment, maltreatment, or any form of discrimination as reprisal for seeking advocacy assistance or making a complaint.

(d) A violation of this section shall be reported by the [executive office on aging] the<sup>1</sup> long-term care ombudsman to the appropriate police department or prosecuting attorney.

[(b)] (e) Any long-term care facility or long-term care facility employee who violates [the provisions of] this section shall be guilty of a misdemeanor. Each separate retaliatory act and each day during which any retaliatory act continues shall constitute a separate offense.”

SECTION 8. Chapter 349, Hawaii Revised Statutes, is amended by designating section 349-15, Hawaii Revised Statutes, as part III and adding a title before section 349-15, Hawaii Revised Statutes, to read as follows:

**“PART III. CAREGIVER SUPPORT SERVICES”**

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

SECTION 11. This Act shall take effect upon its approval; provided that section 2 shall take effect on January 1, 2008.

(Approved May 24, 2007.)

**Notes**

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

**ACT 94**

S.B. NO. 1400

A Bill for an Act Relating to Financial Abuse.

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

SECTION 1. Reported instances of financial abuse of elders have become increasingly widespread throughout the United States. As one means by which to attempt to curtail this disturbing trend, it is the intent of the legislature to impose on financial institutions a duty to promptly report suspected incidents of financial abuse to local law enforcement agencies or the department of human services, so that those agencies can determine whether further investigation or other action is warranted.

SECTION 2. Chapter 412, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§412: Mandatory reporting of suspected financial abuse of an elder.**

(a) A financial institution shall report suspected financial abuse that is directed towards, targets, or is committed against an elder to the department of human services if:

- (1) In connection with providing financial services to the elder, the officer or employee of a financial institution:
  - (A) Has direct contact with the elder; or
  - (B) Reviews or approves the elder’s financial documents, records, or transactions; and
- (2) The officer or employee, within the scope of employment or professional practice:
  - (A) Observes or has knowledge of an incident the officer or employee believes in good faith appears to be financial abuse; or
  - (B) In the case of officers or employers who do not have direct contact with the elder, has a good faith suspicion that financial abuse has occurred or may be occurring, based solely on the information present at the time of reviewing or approving the document, record, or transaction.

(b) Suspected financial abuse shall be reported immediately to the department by telephone and by written report sent within five business days.

(c) Upon notification by a financial institution of suspected financial abuse, the department, in a timely manner, shall determine whether the department has jurisdiction over the elder involved; and if not, shall notify the financial institution, which shall then notify the proper local law enforcement agency immediately by telephone and forward the written report to the agency within three business days. A financial institution shall not be liable for failing to report suspected financial abuse to a local law enforcement agency in cases in which the department fails to notify the institution of the department’s lack of jurisdiction.

(d) Notwithstanding any other state law to the contrary, including but not limited to laws concerning confidentiality, any person, including the financial institution, who:

- (1) Participates in the making of a report pursuant to this section; and
- (2) Believes, in good faith, that the action is warranted by facts known to that person,

shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of the report. Any person making the report shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

(e) For the purposes of this section:

“Department” means the department of human services.

“Elder” means a person who is sixty-two years of age or older.

“Financial abuse” means financial abuse or economic exploitation.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

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

(Approved May 24, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Enhanced Penalties for Securities Violations Committed Against Elders.

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

SECTION 1. Chapter 485, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§485- Additional administrative penalties for securities violations committed against elders.** If a person commits a violation under this chapter and the violation is directed toward, targets, or is committed against a person who at the time of the violation is sixty-two years of age or older, the commissioner, in addition to any other administrative penalty, may impose an administrative penalty not to exceed \$50,000 for each violation; provided that this section shall not apply to registered dealers for violations of 485-15(10).

**§485- Additional civil penalties for securities violations committed against elders.** If a person commits a violation under this chapter and the violation is directed toward, targets, or is committed against a person who at the time of the violation is sixty-two years of age or older, a court, in addition to any other civil penalty, may impose a civil penalty not to exceed \$50,000 for each violation; provided that this section shall not apply to registered dealers for violations of 485-15(10).”

SECTION 2. Chapter 485A, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§485A- Additional administrative penalties for securities violations committed against elders.** If a person commits a violation under this chapter and the violation is directed toward, targets, or is committed against a person who at the time of the violation is sixty-two years of age or older, the commissioner, in addition to any other administrative penalty, may impose an administrative penalty not to exceed \$50,000 for each violation; provided that this section shall not apply to registered broker-dealers for violations of 485A-412(d)(9).

**§485A- Additional civil penalties for securities violations committed against elders.** If a person commits a violation under this chapter and the violation is directed toward, targets, or is committed against a person who at the time of the violation is sixty-two years of age or older, a court, in addition to any other civil penalty, may impose a civil penalty not to exceed \$50,000 for each violation; provided that this section shall not apply to registered broker-dealers for violations of 485A-412(d)(9).”

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. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved May 24, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 96

S.B. NO. 1182

A Bill for an Act Relating to Needs Allowance.

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

SECTION 1. The Social Security Administration currently requires \$30 of monthly benefits be set aside for social security recipients who reside in certain institutional care settings. The \$30 is used for the individual's needs. The personal needs allowance is intended to pay for clothing, toiletries, bus fare, personal postage costs, snacks, and other incidental expenses of day-to-day living.

In 1974, the federal government established the minimum needs allowance for a nursing home resident to be \$25, which was raised in 1988 to \$30, which is still in effect today. In 2004, only eleven states remained at \$30, with the other states having since raised their minimum allowance. If the needs allowance was pegged to the Consumer Price Index with 1974 as a baseline, it would have taken \$115.19 in 2004 to match the buying power of \$25 in 1974.

Raising the needs allowance may require the use of general funds. However, the legislature finds that the \$30 amount should be increased to allow residents of long-term care facilities and community care home residents to enjoy a minimally acceptable daily quality of life.

The purpose of this Act is to enable the department of human services to establish a needs allowance for persons residing in community care homes and other long-term care facilities.

SECTION 2. Chapter 346D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§346D- Needs allowance; waiver program individuals.** (a) There may be established a monthly needs allowance for individuals living in:

- (1) Adult residential care home type I and type II facilities;
- (2) Licensed developmental disabilities domiciliary homes as defined in section 321-15.9;
- (3) Community care foster family homes as defined in section 346-331;
- (4) Certified adult foster homes as defined in section 321-11.2;
- (5) Domiciliary care as defined in section 346-1;
- (6) A nursing facility as defined in section 346E-1; or
- (7) A community-based residence as part of the residential alternatives community care program.

(b) The needs allowance may be administered by the department of human services to pay for clothing and other personal miscellaneous needs, such as bus fare, personal postage costs, haircuts, and other costs of day-to-day living.

(c) The State's supplemental payment for a needs allowance under subsection (a) shall be increased by an amount necessary to bring the allowance up to \$50 per month. The payment under this section shall be afforded to an individual notwithstanding that the individual is incapacitated; provided that the moneys may be spent on behalf of the client, with a written accounting, by the operator of the residence or facility.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved May 24, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Incarcerated Persons.

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

SECTION 1. Section 353-19, Hawaii Revised Statutes, is amended to read as follows:

**“§353-19 Compensation for labor or training by committed persons.** Every committed person, who is working within a state correctional facility or who is in such training or educational programs as the director or a designated agent pursuant to law prescribes, may be allowed such graduated sums of money as the director by ~~[rule]~~ policy determines. Any committed person, other than persons on work furlough, engaged in work, training, or education pursuant to this section or work pursuant to this chapter or chapter 354D shall not be ~~[affected by chapter 386.]~~ considered an employee or in employment.”

SECTION 2. Section 383-7, Hawaii Revised Statutes, is amended to read as follows:

**“§383-7 Excluded service.** “Employment” shall 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 as set forth in section 3306(c)(2) of the Internal Revenue Code of 1986, as amended;
- (3) Service not in the course of the employing unit’s trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit’s trade or business during a calendar quarter only if:
  - (A) On each of some twenty-four days during the quarter the individual performs the service for some portion of the day; or
  - (B) The individual was regularly employed as determined under subparagraph (A) by the employing unit in the performance of 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 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);
  - (ii) The service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employing unit which had in its employ one or more individuals performing the service for some portion of a day in each of twenty calendar weeks all occurring, whether consecutive or not, in either the current or the preceding calendar year; and
  - (iii) Service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
- (5) Service performed by an individual in the employ of 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 apply to those instrumentalities, and to services performed for 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 those instrumentalities with respect to 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 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 the service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1986, as amended;
  - (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 the Code), if:
  - (i) The remuneration for the service is less than \$50; or
  - (ii) The service is performed by a fully ordained, commissioned, or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of duties required by the order;
- (B) Service performed in the employ of a school, college, or university, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university; or
- (C) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;
- (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-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 producer, if all 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 service performed by the individual for 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 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 services performed by the individual for the employing unit are performed for remuneration solely by way of commission;
  - (20) Service performed for a 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 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 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;
  - (21) Service performed by a direct seller as defined in section 3508 of the Internal Revenue Code of 1986; [and]
  - (22) Service performed by an election official or election worker as defined in section 3309(b)(3)(F) of the Internal Revenue Code of 1986, as amended[-]; and
  - (23)<sup>1</sup> Service performed by an inmate or any person committed to a penal institution.

None of the foregoing exclusions (1) to [(22)] (23) 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. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

(Approved May 25, 2007.)

Note

- 1. “(23)” should be underscored.

ACT 98

H.B. NO. 1155

A Bill for an Act Relating to Criminal Property Damage.

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

SECTION 1. Section 708-820, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of criminal property damage in the first degree if by means other than fire:

- (a) The person intentionally or knowingly damages property and thereby recklessly places another person in danger of death or bodily injury;
- (b) The person intentionally or knowingly damages the property of another, without the other’s consent, in an amount exceeding \$20,000;
- (c) The person intentionally or knowingly damages the property of another during the time of a civil defense emergency proclaimed by the governor pursuant to chapter 128, within the area covered by the civil defense emergency or during the period of disaster relief under chapter 127; or

[H(d)] The person intentionally or knowingly damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other’s consent, in an amount exceeding \$1,500. In calculating the ~~[value of damage, the value of future crops that were damaged is included.]~~ amount of damages to agricultural products, the amount of damages includes future losses and the loss of future production.”

SECTION 2. Section 708-821, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of criminal property damage in the second degree if by means other than fire:

- (a) The person intentionally or knowingly damages the property of another, without the other’s consent, by the use of widely dangerous means;
- (b) The person intentionally or knowingly damages the property of another, without the other’s consent, in an amount exceeding \$1,500; or
- (c) The person intentionally or knowingly damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other’s consent, in an amount exceeding \$500. In calculating the ~~[value of damage, the value of future crops that were damaged is included.]~~ amount of damages to agricultural products, the amount of damages includes future losses and the loss of future production.”

SECTION 3. Section 708-822, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of criminal property damage in the third degree if by means other than fire:

- (a) The person recklessly damages the property of another, without the other’s consent, by the use of widely dangerous means;
- (b) The person intentionally or knowingly damages the property of another, without the other’s consent, in an amount exceeding \$500; or
- (c) The person intentionally damages the agricultural equipment, supplies, or products or aquacultural equipment, supplies, or products of another, including trees, bushes, or any other plant and livestock of another, without the other’s consent, in an amount exceeding \$100. In calculating the ~~[value of damage, the value of future crops that were damaged is included.]~~ amount of damages to agricultural products, the amount of damages includes future losses and the loss of future production.”

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 and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved May 25, 2007.)

## ACT 99

H.B. NO. 14

A Bill for an Act Relating to Education.

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

SECTION 1. The interagency working group established pursuant to part VIII of Act 51, Session Laws of Hawaii 2004, the “Reinventing Education Act of 2004”, has recommended to the legislature that the transfer of functions from the department of budget and finance to the department of education specified in Act 51, as amended, be repealed.

The interagency working group’s report to the 2007 legislature recommended that fiscal functions should remain with the department of budget and finance. The interagency working group reported that the departments of education and budget and finance have improved the fiscal processes between the two departments.

The department of budget and finance and the department of education have also signed a memorandum of understanding effective June 28, 2006, that sets forth new procedures for requesting allotments for capital improvement projects and the deposit of funds into the state educational facilities improvement special fund. Other terms of the memorandum of understanding set forth requirements relating to the sharing of information for other fiscal issues, including debt service calculations, employee benefit calculations, and the funding of collective bargaining increases. The memorandum of understanding also sets forth new procedures for increasing the expenditure ceiling for federal funds for the department of education.

The recommendations to repeal statutory provisions were mutual decisions of the departments reached after extensive discussion and further review by the

## ACT 100

interagency working group. The function of Act 51, as amended, as a critical catalyst for analysis and discussion of issues and problems has been fulfilled.

Therefore, based upon the interagency working group's recommendations contained in its report to the 2007 legislature, the purpose of this Act is to repeal the transfer of functions from the department of budget and finance to the department of education as specified in Act 51, as amended.

SECTION 2. Act 51, Session Laws of Hawaii 2004, as amended by Act 225, Session Laws of Hawaii 2006, is amended by amending sections 47 and 48 to read as follows:

“SECTION 47. (a) All the rights, powers, functions, duties, and resources of[;

- (1) ~~The department of budget and finance relating to the:~~
  - (A) ~~Funding of collective bargaining agreement increases; and~~
  - (B) ~~Securing, administering use, and expending of federal funds and other aid, including their custodial supervision; and~~
- (2) ~~The] the~~ department of health relating to school health aides and public health nurses who supervise school health aides[;],

are transferred to the department of education effective July 1, 2007, subject to repeal by subsequent legislation.

(b) All moneys budgeted in support of each position to be transferred to the department of education, including moneys for direct and indirect employee benefits, are transferred to the department of education effective July 1, 2007, subject to repeal by subsequent legislation.

SECTION 48. All resources, appropriations, records, equipment, databases, software, programming, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of accounting and general services[~~, department of budget and finance,~~] and the department of health relating to the functions transferred to the department of education shall be transferred with the functions to which they relate.”

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

SECTION 4. This Act shall take effect on June 29, 2007.

(Approved May 25, 2007.)

## ACT 100

H.B. NO. 831

A Bill for an Act Relating to Veteran Burial Grants.

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

SECTION 1. The legislature finds that a World War II Filipino veteran who died after June 30, 1994, and who was, at the time of the veteran's death, a United States citizen and a resident of the State of Hawaii, is entitled to receive a burial grant from the state office of veterans' services to pay for the cost of:

- (1) Providing funeral and burial services for the deceased veteran; and
- (2) Transporting the remains of the deceased veteran to the Philippines.

To qualify for this burial grant, however, the World War II Filipino veteran's survivor or an interested party must produce an itemized paid invoice showing the specific services rendered on behalf of the deceased veteran. Because of the tremendous costs required to procure funeral and burial services, as well as the cost of transportation to the Philippines, some World War II Filipino veterans, including the families and friends of these veterans, cannot afford to pay for these activities in advance. Consequently, some World War II Filipino veterans will not be able to qualify for burial grants from the office of veterans' services because they cannot pay upfront costs associated with funeral, burial, and transportation services to be reimbursed at a later time. Because of these financial constraints, the bodies of some deceased veterans could not be properly buried until the deceased veteran's survivor or interested parties raised the necessary funds to pay the mortuary for funeral and other related services.

The legislature further finds that under the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106-419), many World War II Filipino veterans previously eligible to participate in the state office of veterans' services program regarding transportation of remains to the Philippines are now eligible to be interred in state and federal veterans' cemeteries. Therefore, in fairness to other veterans' survivors, the payments made under this Act are properly limited to only those World War II Filipino veterans who are not eligible for interment in state and federal veterans cemeteries under the Veterans Benefits and Health Care Improvement Act of 2000.

This Act requires the office of veterans' services to provide an alternative to the procedures currently specified in the rules of the office of veterans' services, which only apply in situations where a deceased World War II Filipino veteran's survivor or an interested party has already paid for services rendered on behalf of the deceased veteran, or in situations where the deceased veteran may have purchased a pre-paid funeral and burial plan.

The purpose of this Act, through the veterans' burial grant program, is to pay directly to a mortuary or crematory the cost of:

- (1) Providing funeral and burial services at the request of a qualifying deceased World War II Filipino veteran's survivor or an interested party; and
- (2) Transporting the veteran's remains to the Philippines,

upon the submission of a contract for services on behalf of the deceased veteran and an itemized unpaid invoice. The amount paid for funeral and burial services and transportation costs shall not exceed \$2,000 per person.

SECTION 2. Chapter 363, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§363- Disbursement of World War II Filipino veterans burial grant funds.** (a) At the request of a deceased World War II Filipino veteran's survivor or an interested party, the office shall receive, review, and, as appropriate, approve requests for payments to:

- (1) Provide funeral and burial services for a World War II Filipino veteran who died after June 30, 1994; and
- (2) Transport the remains of that World War II Filipino veteran to the Philippines.

(b) The office shall establish the amount of burial grant funds that may be disbursed on behalf of a World War II Filipino veteran; provided that the amount shall not exceed \$2,000 per person.

(c) The office shall not expend more than the amount appropriated for the fiscal year to provide burial grants for deceased World War II Filipino veterans.

## ACT 101

(d) Specific eligibility criteria, application and appeal procedures, service choices, and invoicing arrangements shall be established by the office.

(e) Payment shall be authorized by the office upon the submission of an itemized unpaid invoice reflecting services that have been satisfactorily performed on behalf of a deceased World War II Filipino veteran.

(f) As used in this section, "World War II Filipino veteran" means a Filipino veteran who enlisted in World War II between October 6, 1945, and June 30, 1947, and who, at the time of the veteran's death, was a United States citizen and a resident of the State of Hawaii."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$20,000 or so much thereof as may be necessary for fiscal year 2007-2008 for burial grant funds for deceased World War II Filipino veterans.

The sums appropriated shall be expended by the department of defense, office of veterans' services for the purposes of this Act.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval; provided that section 3 shall take effect on July 1, 2007.

(Approved May 25, 2007.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 101

S.B. NO. 618

A Bill for an Act Relating to Education.

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

SECTION 1. Over the years, many young Americans have had their education interrupted or curtailed due to compulsory induction into the military during times of conflict or war. Others have had their schooling interrupted due to wartime practices, such as the internment of Japanese and Japanese-Americans during World War II.

The purpose of this Act is to direct the department of education to establish a program to grant veterans high school diplomas to veterans of the armed services who could not complete their high school education due to compulsory service in the armed services of the United States during World War II, the Korean conflict, or the Vietnam War, as well as those who did not complete high school because of wartime practices.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

**“§302A- Veterans high school diploma for armed services veterans and others.** (a) The department shall establish a program to award a veterans high school diploma to qualified veterans who did not receive a high school diploma as a result of compulsory induction into active service in the armed services of the United States.

(b) For purposes of this section, a “qualified veteran” is a person who:

- (1) Was a resident of the State;

- (2) Was compulsorily inducted into the armed services of the United States between:
- (A) December 1, 1941, and August 30, 1945;
  - (B) June 1, 1950, and July 31, 1953; or
  - (C) August 1, 1964, and January 31, 1973;
- while attending or enrolled in a high school in the State; provided that the department may consider extending these time periods through rules adopted under chapter 91; and
- (3) Did not complete a high school curriculum and receive a high school diploma.

(c) The department shall also award a veterans high school diploma to any person whose high school education was interrupted due to wartime practices such as internment during World War II.

(d) Qualified persons shall submit to the department, on forms that the department shall prescribe, information establishing eligibility for the award of a veterans high school diploma under this section.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

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

(Approved May 25, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 102**

S.B. NO. 139

A Bill for an Act Relating to Cigarette Tax.

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

SECTION 1. The purpose of this Act is to clarify that the moneys earmarked from the cigarette tax collected on each cigarette sold pursuant to section 245-15, Hawaii Revised Statutes, for deposit into the Hawaii cancer research special fund, the trauma system special fund, the emergency medical services special fund, and the community health centers special fund shall be assessed on a per cigarette basis. In addition, this Act ensures that moneys are earmarked for each special fund through 2011 and beyond.

SECTION 2. Section 245-15, Hawaii Revised Statutes, is amended to read as follows:

“**§245-15 Disposition of revenues.** All moneys collected pursuant to this chapter shall be paid into the state treasury as state realizations to be kept and accounted for as provided by law; provided that, of the moneys collected under the tax imposed pursuant to [section 245-3(a) that represents the difference between the 7.0 cents for each cigarette sold, used, or possessed by a wholesaler or dealer under section 245-3(a)(1) and the amount of tax imposed and collected on each cigarette sold, used, or possessed by a wholesaler or dealer under section 245-3(a)(2), (3), (4), (5), (6), and (7)]:

- (1) [From] Section 245-3(a)(5), after September 30, 2006, and prior to [September 29,] October 1, 2007, 1.0 cent per cigarette shall be deposited to the credit of the Hawaii cancer research special fund,

- established pursuant to section ~~[[304A-2168[]]~~, for research and operating expenses;
- (2) ~~[From] Section 245-3(a)(6), after September 30, 2007, and prior to September 29,~~ October 1, 2008:
    - (A) 1.5 cents per cigarette shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section ~~[[304A-2168[]]~~, for research and operating expenses; ~~and~~
    - (B) 0.25 cents ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the trauma system special fund established pursuant to section 321-22.5; and
    - (C) 0.25 cents ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234;
  - (3) ~~[From] Section 245-3(a)(7), after September 30, 2008, and prior to September 29,~~ October 1, 2009:
    - (A) 2.0 cents per cigarette shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section ~~[[304A-2168[]]~~, for research and operating expenses; ~~and~~
    - (B) 0.5 cents ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the trauma system special fund established pursuant to section 321-22.5;
    - (C) 0.25 cents ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the community health centers special fund; and
    - (D) 0.25 cents ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234;
  - (4) ~~[From] Section 245-3(a)(8), after September 30, 2009, and prior to September 29,~~ October 1, 2010:
    - (A) 2.0 cents per cigarette shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section ~~[[304A-2168[]]~~, for research and operating expenses; ~~and~~
    - (B) 0.75 cents ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the trauma system special fund established pursuant to section 321-22.5;
    - (C) 0.75 cents ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the community health centers special fund; and
    - (D) 0.5 cents ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234;
  - (5) ~~[From] Section 245-3(a)(9), after September 30, 2010, and prior to September 29,~~ October 1, 2011:
    - (A) 2.0 cents per cigarette shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section ~~[[304A-2168[]]~~, for research and operating expenses; ~~and~~
    - (B) 1.0 cent ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the trauma system special fund established pursuant to section 321-22.5;
    - (C) 1.0 cent ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the community health centers special fund; and
    - (D) 1.0 cent ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234; and
  - (6) ~~[From] Section 245-3(a)(10), after September 30, 2011, and thereafter:~~

- (A) 2.0 cents per cigarette shall be deposited to the credit of the Hawaii cancer research special fund, established pursuant to section ~~[§]304A-2168[§]~~, for research and operating expenses; ~~and~~
- (B) 1.5 cents ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the trauma system special fund established pursuant to section 321-22.5;
- (C) 1.25 cents ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the community health centers special fund; and
- (D) 1.25 cents ~~[of the moneys]~~ per cigarette shall be deposited to the credit of the emergency medical services special fund established pursuant to section 321-234.

The department shall provide an annual accounting of these dispositions to the legislature.”

SECTION 3. Section 304A-2168, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The following shall be deposited into the special fund:

- (1) Moneys collected pursuant to section 245-15 [shall be deposited into the special fund.]; and
- (2) Interest earned or accrued on moneys in the special fund.”

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

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

(Approved May 28, 2007.)

## ACT 103

S.B. NO. 992

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 current technology allows for a variety of liquid fuels to be used in electric-power generation. Where older electric power generation technology used diesel fuel or fuel oil, newer technologies now allow for the use of multiple types of liquid fuels, some of which were previously used solely for transportation needs.

The legislature also finds that naphtha is the only liquid fuel, when used for electric-power generation, whose taxation is not explicit under section 243-4, Hawaii Revised Statutes.

The purpose of this Act is to clarify the taxation rate for naphtha, which is sold for use in electric power generation.

SECTION 2. Section 243-1, Hawaii Revised Statutes, is amended as follows:  
1. By adding a new definition to be appropriately inserted and to read:

““Power-generating facility” means any electricity-generating facility that requires a permit issued under the Federal Clean Air Act (42 U.S.C. 7401-7671q), the Hawaii air pollution control law (chapter 342B), or both.”

2. By amending the definitions of “aviation fuel”, “distributor”, “liquid fuel”, “person”, “retail dealer”, and “use” to read:

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

“Distributor” means [~~and includes~~]:

- (1) Every person who refines, manufactures, produces, or compounds liquid fuel in the State[;] and sells or uses the same therein;
- (2) Every person who imports or causes to be imported into the State any liquid fuel and sells it therein, whether in the original packages or containers in which it is imported or otherwise than in such original packages or containers, or who imports any such fuel for the person’s own use in the State;
- (3) Every person who acquires liquid fuel from a person not a licensed distributor and sells or uses it, whether in the original package or container in which it was imported (if imported)[;] or otherwise than in such original package or container; and
- (4) Every person who acquires liquid fuel from a licensed distributor as a wholesaler thereof and sells or uses it.

“Liquid fuel” or “fuel” means [~~and includes~~] all liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power and includes liquefied petroleum gases, all distillates of and condensates from petroleum, natural gas, coal, coal tar, and vegetable ferments, such distillates and condensates being ordinarily designated as a gasoline, naphtha, benzol, benzine, and alcohols so usable but not restricted to such designation. All aviation fuel [~~which~~] that is sold for use in or used for airplanes is deemed to be “liquid fuel” or “fuel” whether or not coming within the definition contained in the foregoing sentence.

“Person”, except where the context or sense otherwise requires, means [~~and includes~~] individuals, firms, associations, corporations, trusts, estates, partnerships, or other entities.

“Retail dealer” means [~~and includes~~] a person who purchases liquid fuel from a licensed distributor[;] and sells the liquid fuel at retail. Only sales of liquid fuel for consumption or used by the purchaser, and not for resale, are sales at retail.

“Use”, either as a noun or verb, and derivative expressions, means [~~and includes~~] distribution or other disposition of fuel, or any other use thereof, whether with or without compensation [~~therefor~~].”

SECTION 3. Section 243-4, Hawaii Revised Statutes, is amended to read as follows:

“**§243-4 License taxes.** (a) Every distributor shall, in addition to any other taxes provided by law, pay a license tax to the department of taxation for each gallon of liquid fuel refined, manufactured, produced, or compounded by the distributor and sold or used by the distributor in the State or imported by the distributor, or acquired by the distributor from persons who are not licensed distributors, and sold or used by the distributor in the State. Any person who sells or uses any liquid fuel, knowing that the distributor from whom it was originally purchased has not paid and is not paying the tax thereon, shall pay such tax as would have applied to such sale or use by the distributor. The rates of tax [~~hereby~~] imposed are as follows:

- (1) For each gallon of diesel oil, 1 cent;
- (2) For each gallon of gasoline or other aviation fuel sold for use in or used for airplanes, 1 cent;
- (3) For each gallon of naphtha sold for use in a power-generating facility, 1 cent;

- [(3)] (4) For each gallon of liquid fuel, other than fuel mentioned in paragraphs (1) [~~and~~], (2), and (3), and other than an alternative fuel, sold or used in the city and county of Honolulu, or sold in any county for ultimate use in the city and county of Honolulu, 16 cents state tax, and in addition thereto [such] an amount, to be known as the “city and county of Honolulu fuel tax”, as shall be levied pursuant to section 243-5;
- [(4)] (5) For each gallon of liquid fuel, other than fuel mentioned in paragraphs (1) [~~and~~], (2), and (3), and other than an alternative fuel, sold or used in the county of Hawaii, or sold in any county for ultimate use in the county of Hawaii, 16 cents state tax, and in addition thereto [such] an amount, to be known as the “county of Hawaii fuel tax”, as shall be levied pursuant to section 243-5;
- [(5)] (6) For each gallon of liquid fuel, other than fuel mentioned in paragraphs (1) [~~and~~], (2), and (3), and other than an alternative fuel, sold or used in the county of Maui, or sold in any county for ultimate use in the county of Maui, 16 cents state tax, and in addition thereto [such] an amount, to be known as the “county of Maui fuel tax”, as shall be levied pursuant to section 243-5; and
- [(6)] (7) For each gallon of liquid fuel, other than fuel mentioned in paragraphs (1) [~~and~~], (2), and (3), and other than an alternative fuel, sold or used in the county of Kauai, or sold in any county for ultimate use in the county of Kauai, 16 cents state tax, and in addition thereto [such] an amount, to be known as the “county of Kauai fuel tax”, as shall be levied pursuant to section 243-5.

If it is shown to the satisfaction of the department, based upon proper records and from [such] any other evidence as the department may require, that liquid fuel, other than fuel mentioned in paragraphs (1) [~~and~~], (2), and (3), is used for agricultural equipment that does not operate upon the public highways of the State, the user thereof may obtain a refund of all taxes thereon imposed by this section in excess of 1 cent per gallon. The department shall adopt rules to administer such refunds.

(b) Every distributor of diesel oil, in addition to the tax required by subsection (a), shall pay a license tax to the department for each gallon of [such] diesel oil sold or used by the distributor for operating a motor vehicle or motor vehicles upon public highways of the State. The rates of the additional tax [hereby] imposed are as follows:

- (1) For each gallon of diesel oil sold or used in the city and county of Honolulu, or sold in any other county for ultimate use in the city and county of Honolulu, 15 cents state tax, and in addition thereto [such] an amount, to be known as the “city and county of Honolulu fuel tax”, as shall be levied pursuant to section 243-5;
- (2) For each gallon of diesel oil sold or used in the county of Hawaii, or sold in any other county for ultimate use in the county of Hawaii, 15 cents state tax, and in addition thereto [such] an amount, to be known as the “county of Hawaii fuel tax”, as shall be levied pursuant to section 243-5;
- (3) For each gallon of diesel oil sold or used in the county of Maui, or sold in any other county for ultimate use in the county of Maui, 15 cents state tax, and in addition thereto [such] an amount, to be known as the “county of Maui fuel tax”, as shall be levied pursuant to section 243-5; and
- (4) For each gallon of diesel oil sold or used in the county of Kauai, or sold in any other county for ultimate use in the county of Kauai, 15 cents state tax, and in addition thereto [such] an amount, to be known as the

“county of Kauai fuel tax”, as shall be levied pursuant to section 243-5.

If any user of diesel oil furnishes a certificate, in [sueh] a form [as] that the department shall prescribe, to the distributor[;] or if the distributor who uses diesel oil signs [sueh] the certificate, certifying that the diesel oil is for use in operating a motor vehicle or motor vehicles in areas other than upon the public highways of the State, the tax as provided in paragraphs (1) to (4) shall not be applicable. [~~In the event~~] If a certificate is not or cannot be furnished and the diesel oil is in fact for use for operating a motor vehicle or motor vehicles in areas other than upon public highways of the State, the user thereof may obtain a refund of all taxes thereon imposed by the foregoing paragraphs. The department shall adopt rules to administer the refunding of such taxes.

(c) The tax shall not be collected in respect to any benzol, benzene, toluol, xylol, or alternative fuel sold for use other than for operating internal combustion engines. With respect to these products, other than alternative fuels, the department, by rule, shall provide for the reporting and payment of the tax and for the keeping of records [~~in respect thereto;~~] in such a manner as to collect, for each gallon of [sueh] each product sold for use in internal combustion engines for the generation of power, or so used, the same tax or taxes as apply to each gallon of diesel oil. With respect to alternative fuels, the only tax collected shall be that provided in paragraphs (1), (2), and (3) of this subsection. This subsection shall not apply to aviation fuel sold for use in or used for airplanes.

- (1) Every distributor of any alternative fuel for operation of an internal combustion engine shall pay a license tax to the department of one-quarter of [one] 1 cent for each gallon of [sueh] alternative fuel sold or used by the distributor;
- (2) Every distributor, in addition to the tax required under paragraph (1) of this subsection, shall pay a license tax to the department for each gallon of alternative fuel sold or used by the distributor for operating a motor vehicle or motor vehicles upon the public highways of the State at a rate proportional to that of the rates applicable to diesel oil in subsection (b), rounded to the nearest one-tenth of a cent, as follows:
  - (A) Ethanol, 0.145 times the rate for diesel;
  - (B) Methanol, 0.11 times the rate for diesel;
  - (C) Biodiesel, 0.25 times the rate for diesel;
  - (D) Liquefied petroleum gas, 0.33 times the rate for diesel; and
  - (E) For other alternative fuels, the rate shall be based on the energy content of the fuels as compared to diesel fuel, using a lower heating value of one hundred thirty thousand British thermal units per gallon as a standard for diesel, so that the tax rate, on an energy content basis, is equal to one-quarter the rate for diesel fuel.

The taxes so paid shall be paid into the state treasury and deposited in special funds or paid over in the same manner as provided in subsection (b) in respect of the tax on diesel oil;

- (3) If any user of alternative fuel furnishes to the distributor a certificate, in [sueh] a form [as] that the department shall prescribe[;] or if the distributor who uses alternative fuel signs [sueh] the certificate, certifying that the alternative fuel is for use in operating a motor vehicle or motor vehicles in areas other than upon the public highways of the State, the tax as provided by paragraphs (1) and (2) of this subsection shall not be applicable; provided that no certificate shall be required if the alternative fuel is used for fuel and heating purposes in the home. [~~In the event~~] If a certificate is not or cannot be furnished and the

alternative fuel is in fact used for operating an internal combustion engine or operating a motor vehicle or motor vehicles in areas other than upon the public highways of the State, the user thereof may obtain a refund of all taxes thereon imposed by [such] the foregoing paragraphs. The department shall adopt rules to administer the refunding of [such] these taxes [imposed].

(d) No tax shall be collected in respect to any liquid fuel, including diesel oil and liquefied petroleum gas, shown to the satisfaction of the department to have been sold for use in and actually delivered to, or sold in, the county of Kalawao.’’

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

SECTION 5. This Act shall take effect upon its approval; provided that:

- (1) The amendments made to this Act to:
  - (A) The definition of “power-generating facility” in section 243-1, Hawaii Revised Statutes; and
  - (B) Section 243-4(a), Hawaii Revised Statutes; shall be repealed on December 31, 2009, and section 243-4(a), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act; and
- (2) The rate of tax for naphtha as provided for in section 243-4(a)(3), Hawaii Revised Statutes, shall be effective retroactively and apply to any imposition of the fuel tax on naphtha sold for use in a power-generating facility.

(Approved May 29, 2007.)

## ACT 104

S.B. NO. 1924

A Bill for an Act Relating to Lands Controlled by the State.

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

SECTION 1. Notwithstanding any other law to the contrary, including section 171-50(c), Hawaii Revised Statutes, the board may:

- (1) Exchange, in accordance with section 171-50(a) and (b), Hawaii Revised Statutes; or
- (2) Sell, at fair market value in accordance with section 171-17, Hawaii Revised Statutes,

but not both, by direct negotiation and without recourse to public auction, no more than fifteen acres of public land as defined under section 171-2, Hawaii Revised Statutes, to an eleemosynary organization that has been certified to be tax-exempt under section 501(c)(1) or (3) of the Internal Revenue Code of 1986, as amended, to be used as the site of a community center on the following conditions:

- (1) The lands shall be used by the eleemosynary organization for a community center that shall be made available to the public without regard to race, creed, color, national origin, sex, sexual orientation, or mental or physical handicap;
- (2) The eleemosynary organization shall demonstrate sources of funding sufficient to construct and maintain a multi-purpose community center with sufficient size and facilities to serve a community of twenty-five thousand people, including:

- (A) A major aquatic center with two swimming pools;
  - (B) An athletic complex with a gymnasium that houses a national collegiate athletic association regulation-sized basketball court;
  - (C) A performing arts center;
  - (D) An educational and vocational training center; and
  - (E) At least three hundred parking stalls;
- (3) The major donors contributing to the capital improvements or maintenance of the community center require the eleemosynary organization to own the land in fee simple instead of a lease under section 171-43.1, Hawaii Revised Statutes; and
- (4) If the land is not used or ceases to be used for the purpose set forth in paragraph (1), ownership of the land and any improvements constructed thereon shall revert to the State; provided that any pending liabilities assigned to the property, eleemosynary organization, or other party in effect prior to the reversion shall not be transferred to the State.

SECTION 2. This Act shall take effect on approval; provided that it shall be repealed on December 31, 2010.

(Approved May 29, 2007.)

**ACT 105**

S.B. NO. 98

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 the interagency working group established pursuant to part VIII of Act 51, Session Laws of Hawaii 2004, the "Reinventing Education Act of 2004," as amended by Act 225, Session Laws of Hawaii 2006 (Act 51, as amended), has recommended to the legislature that the transfer of functions from the department of health to the department of education specified in Act 51, as amended, be amended to repeal the transfer of the public health nurses who supervise school health aides. The school health aides are scheduled to transfer July 1, 2007, from the department of health to the department of education.

The interagency working group report states that the department of education and the department of health supported the transfer of the school health aides and the repeal of the transfer of the public health nurses who supervise school health aides. The report also stated that the Hawaii Government Employees Association opposed the transfer of the school health aides. The Hawaii Government Employees Association stated that its objection to any transfer of state employees to the department of education is based on its concern for those employees whose positions and funds might be allocated to the schools through the weighted student formula. The department of education stated that a policy decision has been made not to allocate the school health aides positions through the weighted student formula for the fiscal biennium 2007-2009.

The legislature further finds that the department of education and the department of health have agreed that those public health nurses who supervise the school health aides should remain at the department of health and provide clinical supervision to the school health aides through a service level agreement or memorandum of understanding. Both departments recognize that transferring the public health nurse positions to the department of education would require the department

of health to request replacement positions to carry out essential public health functions. Additionally, the number of public health nurses that would be transferred to the department of education would be insufficient to provide the level of supervision necessary for the school health services program. As a result, both departments have concluded that the best method of supporting the school health services program is to provide clinical supervision for school health aides through a service level agreement or memorandum of understanding.

The school health aides are the primary component of the school health services program established within the department of health. With the transfer of the school health aides to the department of education, the program should also be transferred to the department of education.

The purpose of this Act is to:

- (1) Repeal the transfer from the department of health to the department of education those public health nurses who supervise the school health aides; and
- (2) Repeal the school health services program from chapter 321, Hawaii Revised Statutes, and enact the program in chapter 302A, Hawaii Revised Statutes.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

#### “PART . SCHOOL HEALTH SERVICES PROGRAM

**§302A- Purpose; establishment of program.** The purpose of this part is to establish a statewide school health services program. There shall be within the department a permanent comprehensive school health services program for grades kindergarten through twelve in all the public schools of this state. It is in the general welfare of the state to protect, preserve, care for, and improve the physical and mental health of Hawaii’s children by making available at the public schools first aid and emergency care, preventive health care, health appraisals and follow-ups, and health room facilities.

**§302A- Teenage health program.** The department, in cooperation with the department of health, may establish a statewide teenage health program designed to enhance self-esteem, facilitate communication between students and their parents, incorporate ho‘oponopono techniques in group discussions, expand peer counseling efforts, and provide more counseling opportunities. In implementing this program, the department shall strive to respect and include the diverse needs and values of parents and teenagers served by the program.

**§302A- Department implementation.** The department shall implement this program with the present health services now provided to those schools under the pilot project established under Act 130, Session Laws of Hawaii 1970, to each public school, and further provide the necessary number of health aides to serve each public school. The department may provide health-related screening services at each public school.

School health aides may assist students by administering oral and topical medication, and in emergency situations, other premeasured medication; provided that:

- (1) If the student receiving the medication is a minor, a parent or guardian requests and authorizes the administration of medication;
- (2) The medication has been prescribed by a licensed physician, as defined in section 334-1, or by a practitioner with prescriptive authority;

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- (3) The administration of the medication is with the approval of the department of health; and
- (4) The administration of the medication is necessary for the health of the student and for the student's attendance at school.

**§302A- School health aides.** All full-time school health aides employed in the department shall be employed and have their compensation fixed in accordance with chapter 76 and the appropriate collective bargaining agreement, executive order, executive directive, or rule; provided that the compensation shall be based on a six and one-half hour work day; provided further that:

- (1) The monthly rate of compensation for all school health aides employed less than full-time shall be based on the number of hours they actually work;
- (2) The monthly rate of compensation for full-time health aides so determined shall be multiplied by ten and then divided by twelve and the resulting amount shall be the employee's monthly salary payable over a twelve-month period; and
- (3) The health aides shall have the same working schedule and leave allowance as school teachers in the department.

**§302A- Rules.** The superintendent of education shall adopt rules pursuant to chapter 91 for the purposes of this part."

SECTION 3. Act 51, Session Laws of Hawaii 2004, as amended by Act 221, Session Laws of Hawaii 2004, as amended by Act 22, Session Laws of Hawaii 2005, as amended by Act 225, Session Laws of Hawaii 2006, is amended by amending section 47 to read as follows:

"SECTION 47. (a) All the rights, powers, functions, duties, and resources of:

- (1) The department of budget and finance relating to the:
  - (A) Funding of collective bargaining agreement increases; and
  - (B) Securing, administering, use, and expending of federal funds and other aid, including their custodial supervision; and
- (2) The department of health relating to school health aides [~~and public health nurses who supervise school health aides;~~],

are transferred to the department of education effective July 1, 2007, subject to repeal by subsequent legislation.

(b) All moneys budgeted in support of each position to be transferred to the department of education, including moneys for direct and indirect employee benefits, are transferred to the department of education effective July 1, 2007, subject to repeal by subsequent legislation."

SECTION 4. Effective July 1, 2007, the department of education shall provide career pathways development and training opportunities to all school health aides in the school health services field and other fields within the department of education to ensure the opportunity for continued employment with the department of education.

SECTION 5. Chapter 321, part XIX, Hawaii Revised Statutes, is repealed.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on June 29, 2007.

(Approved May 29, 2007.)

## ACT 106

S.B. NO. 1779

A Bill for an Act Relating to Children.

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

SECTION 1. Section 587-2, Hawaii Revised Statutes, is amended by amending the definition of “party” to read as follows:

““Party” means an authorized agency, the child, the child’s family member or members who are required to be summoned pursuant to section 587-32(a), any other member of the child’s family, or any other person who is alleged in the petition filed under this chapter or who is subsequently determined at any child protective proceeding to be encouraging, causing, or contributing to the acts or conditions which bring the child within this chapter, and who has been duly served with a summons and a copy of the petition filed under this chapter; provided that the court may limit a party’s right to participate in any child protective proceeding if the court deems such limitation of such party’s participation to be consistent with the best interests of the child and such party is not a family member who is required to be summoned pursuant to section 587-32(a), except as [is] provided in section ~~587-73(b)(4);~~ 587-73(b)(1)(D).”

SECTION 2. Section 587-73, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If the court determines that the criteria set forth in subsection (a) are established by clear and convincing evidence~~[, the court shall order:]~~ and:

- (1) The goal of the permanent plan is for the child to be adopted or remain in permanent custody, the court shall order:
- [(4)] (A) That the existing service plan be terminated and that the prior award of foster custody be revoked;
  - [(2)] (B) That permanent custody be awarded to an appropriate authorized agency;
  - [(3)] (C) That an appropriate permanent plan be implemented concerning the child whereby the child will:
    - [(A)] (i) Be adopted pursuant to chapter 578; provided that the court shall presume that it is in the best interests of the child to be adopted, unless the child is or will be in the home of family or a person who has become as family and who for good cause is unwilling or unable to adopt the child but is committed to and is capable of being the child’s guardian or permanent custodian;
    - [(B)] ~~Be placed under guardianship pursuant to chapter 560;~~ or
    - [(C)] (ii) Remain in permanent custody until the child is subsequently adopted, placed under a guardianship, or reaches the age of majority, and that such status shall not be subject to modification or revocation except upon a showing of extraordinary circumstances to the court;
  - [(4)] (D) That such further orders as the court deems to be in the best interests of the child, including[;] but not limited to[;] restricting

- or excluding unnecessary parties from participating in adoption or other subsequent proceedings, be entered; and
- ~~[(5)]~~ (E) Until adoption or guardianship is ordered, that each case be set for a permanent plan review hearing not later than one year after the date that a permanent plan is ordered by the court, or sooner if required by federal law, and thereafter, that subsequent permanent plan review hearings be set not later than each year, or sooner if required by federal law; provided that at each permanent plan review hearing, the court shall review the existing permanent plan and enter such further orders as are deemed to be in the best interests of the child[-]; or
  - (2) The goal of the permanent plan is for the child to be placed under guardianship pursuant to part 2 of article V of chapter 560, the court shall order:
    - (A) That the prior award of foster custody be continued and that the existing service plan be terminated;
    - (B) That an appropriate permanent plan be implemented concerning the child whereby the child will be placed under guardianship pursuant to part 2 of article V of chapter 560; and
    - (C) That, until the guardianship is ordered, each case be set for a permanent plan review hearing not later than six months after the date that a permanent plan is ordered by the court, or sooner if required by federal law; provided that at each permanent plan review hearing, the court shall review the existing permanent plan and enter such further orders as are deemed to be in the best interests of the child.”

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

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

(Approved May 29, 2007.)

**ACT 107**

S.B. NO. 1170

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 Hawaii’s healthy start program began as a child abuse prevention pilot project in 1985. It was expanded statewide in 2001 to prevent child abuse and neglect and to promote child health and development in newborns of families at risk for poor child outcomes. At one time, there was concern that certain families facing substance abuse, domestic violence, and mental health issues were not being effectively enrolled in the program. As a result, a multi-disciplinary team was established, known as enhanced healthy start, to serve families at threatened harm levels of risk as well as infants and toddlers confirmed as being subject to abuse or neglect.

The following additional program changes have been recommended:

- (1) Increase prenatal intake as a means of increasing engagement, retention, and effectiveness;

- (2) Focus on risk factors identified on the Family Stress Checklist at assessment;
- (3) Improve the ratio of child development specialists and clinical specialists to the number of families served; and
- (4) Develop training to keep providers abreast of state-of-the art interventions.

The purpose of this Act is to appropriate or authorize funds from temporary assistance for needy families to the department of human services for the healthy start program, including enhanced healthy start, to address budgetary shortfalls and to implement recommended improvements to the program.

SECTION 2. There is appropriated or authorized from temporary assistance for needy families funds the sum of \$1,660,409 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum, or so much thereof as may be necessary for fiscal year 2008-2009 to the department of human services for the healthy start program, including enhanced healthy start, for the hiring of a child development specialist or clinical specialist and for provider training.

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

SECTION 3. This Act shall take effect on July 1, 2007.

(Approved May 29, 2007.)

## ACT 108

S.B. NO. 1161

A Bill for an Act Relating to Domestic Abuse.

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

SECTION 1. Section 586-10.5, Hawaii Revised Statutes, is amended to read as follows:

**“§586-10.5 Reports by the department of human services[-]; court responsibilities.** In cases where there are allegations of domestic abuse involving a family or household member who is a minor or an incapacitated person as defined in section 560:5-102, the employee or appropriate nonjudicial agency designated by the family court to assist the petitioner shall report the matter to the department of human services, as required under chapters 350 and 587, and shall further notify the department of the granting of the temporary restraining order and of the hearing date. The department of human services shall provide the family court with ~~[an oral or]~~ a written report ~~[of the investigation’s progress on or]~~ on the disposition of the referral. The court shall file the report and mail it to the petitioner and respondent at least two working days before the hearing date[-], if possible. If circumstances prevent the mailing of the report as required in this section, the court shall provide copies of the report to the petitioner and respondent at the hearing. The report shall be noted in the order dismissing the petition or granting the restraining order.”

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

SECTION 3. This Act shall take effect on January 1, 2008.

(Approved May 29, 2007.)

A Bill for an Act Relating to Emergency Vehicles.

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

SECTION 1. Section 291-31.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall knowingly operate, affix or cause to be affixed, display, or possess any lamp, reflector, or illumination device ~~which~~ that appears to be the color blue, or colors blue and red, upon any motor vehicle, motorcycle, motor scooter, bicycle, or moped except for:

- (1) ~~county~~ County law enforcement vehicles authorized and approved by the chief of police of the county in which the vehicle is operated; ~~or~~
- (2) ~~department~~ Department of public safety law enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the director of public safety~~;~~ or
- (3) Department of land and natural resources division of conservation and resources enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the chairperson of the board of land and natural resources.

This prohibition shall not apply to factory-installed instrument illumination.”

SECTION 2. Section 291C-1, Hawaii Revised Statutes, is amended by amending the definition of “authorized emergency vehicle” to read as follows:

““Authorized emergency vehicle” includes ~~such~~ fire department vehicles, police vehicles, ambulances, ~~and~~ ocean safety vehicles ~~as~~, public safety law enforcement vehicles, and conservation and resources enforcement vehicles authorized and approved pursuant to section 291-31.5 that are publicly owned and ~~such~~ other publicly or privately owned vehicles ~~as are~~ designated as such by ~~the city or~~ a county council.”

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

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

(Approved May 29, 2007.)

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In the case of an individual whose benefit year begins prior to January 5, 1992, the individual’s weekly benefit amount shall be, except as otherwise provided in this section, an amount equal to one twenty-fifth of the individual’s total wages for insured work paid during the calendar quarter of the individual’s base period in which such total wages were highest. In the case of an individual whose

benefit year begins after January 4, 1992, the individual's weekly benefit amount shall be, except as otherwise provided in this section, an amount equal to one twenty-first of the individual's total wages for insured work paid during the calendar quarter of the individual's base period in which such total wages were highest. The weekly benefit amount, if not a multiple of \$1, shall be computed to the next higher multiple of \$1. If an individual's weekly benefit amount is less than \$5, it shall be \$5. The maximum weekly benefit amount shall be determined annually as follows: On or before November 30 of each year the total remuneration paid by employers, as reported on contribution reports submitted on or before such date, with respect to all employment during the four consecutive calendar quarters ending on June 30 of the year shall be divided by the average monthly number of individuals performing services in the employment during the same four calendar quarters as reported on the contribution reports. The amount thus obtained shall be divided by fifty-two and the average weekly wage (rounded to the nearest cent) thus determined. For benefit years beginning prior to January 1, 1992, two-thirds of the average weekly wage shall constitute the maximum weekly benefit amount and shall apply to all claims for benefits filed by an individual qualifying for payment at the maximum weekly benefit amount in the benefit year commencing on or after the first day of the calendar year immediately following the determination of the maximum weekly benefit amount. For benefit years beginning January 1, 1992, ~~[and thereafter,]~~ but prior to January 1, 2008, and beginning again on January 1, 2011, seventy per cent of the average weekly wage shall constitute the maximum weekly benefit amount and shall apply to all claims for benefits filed by an individual qualifying for payment at the maximum weekly benefit amount in the benefit year commencing on or after the first day of the calendar year immediately following the determination of the maximum weekly benefit amount. For benefit years beginning January 1, 2008, and ending December 31, 2010, seventy-five per cent of the average weekly wage shall constitute the maximum weekly benefit amount and shall apply to all claims for benefits filed by an individual qualifying for payment at the maximum weekly benefit amount in the benefit year commencing on or after the first day of the calendar year immediately following the determination of the maximum weekly benefit amount. The maximum weekly benefit amount, if not a multiple of \$1, shall be computed to the next higher multiple of \$1.

(Column A) High Quarter Wages	(Column B) Basic Weekly Benefit	(Column C) Minimum Qualifying Wages	(Column D) Maximum Total Benefits in Benefit Year
\$ 37.50– 125.00	\$ 5.00	\$ 150.00	\$ 130.00
125.01– 150.00	6.00	180.00	156.00
150.01– 175.00	7.00	210.00	182.00
175.01– 200.00	8.00	240.00	208.00
200.01– 225.00	9.00	270.00	234.00
225.01– 250.00	10.00	300.00	260.00
250.01– 275.00	11.00	330.00	286.00
275.01– 300.00	12.00	360.00	312.00
300.01– 325.00	13.00	390.00	338.00
325.01– 350.00	14.00	420.00	364.00
350.01– 375.00	15.00	450.00	390.00
375.01– 400.00	16.00	480.00	416.00
400.01– 425.00	17.00	510.00	442.00
425.01– 450.00	18.00	540.00	468.00
450.01– 475.00	19.00	570.00	494.00
475.01– 500.00	20.00	600.00	520.00

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(Column A) High Quarter Wages	(Column B) Basic Weekly Benefit	(Column C) Minimum Qualifying Wages	(Column D) Maximum Total Benefits in Benefit Year
500.01– 525.00	21.00	630.00	546.00
525.01– 550.00	22.00	660.00	572.00
550.01– 575.00	23.00	690.00	598.00
575.01– 600.00	24.00	720.00	624.00
600.01– 625.00	25.00	750.00	650.00
625.01– 650.00	26.00	780.00	676.00
650.01– 675.00	27.00	810.00	702.00
675.01– 700.00	28.00	840.00	728.00
700.01– 725.00	29.00	870.00	754.00
725.01– 750.00	30.00	900.00	780.00
750.01– 775.00	31.00	930.00	806.00
775.01– 800.00	32.00	960.00	832.00
800.01– 825.00	33.00	990.00	858.00
825.01– 850.00	34.00	1020.00	884.00
850.01– 875.00	35.00	1050.00	910.00
875.01– 900.00	36.00	1080.00	936.00
900.01– 925.00	37.00	1110.00	962.00
925.01– 950.00	38.00	1140.00	988.00
950.01– 975.00	39.00	1170.00	1014.00
975.01–1000.00	40.00	1200.00	1040.00
1000.01–1025.00	41.00	1230.00	1066.00
1025.01–1050.00	42.00	1260.00	1092.00
1050.01–1075.00	43.00	1290.00	1118.00
1075.01–1100.00	44.00	1320.00	1144.00
1100.01–1125.00	45.00	1350.00	1170.00
1125.01–1150.00	46.00	1380.00	1196.00
1150.01–1175.00	47.00	1410.00	1222.00
1175.01–1200.00	48.00	1440.00	1248.00
1200.01–1225.00	49.00	1470.00	1274.00
1225.01–1250.00	50.00	1500.00	1300.00
1250.01–1275.00	51.00	1530.00	1326.00
1275.01–1300.00	52.00	1560.00	1352.00
1300.01–1325.00	53.00	1590.00	1378.00
1325.01–1350.00	54.00	1620.00	1404.00
1350.01 and over	55.00	1650.00	1430.00''

SECTION 2. Section 383-23, Hawaii Revised Statutes, is amended to read as follows:

**“§383-23 Weekly benefit for unemployment.** For weeks beginning prior to January 5, 1992, each eligible individual who is unemployed, as defined in section 383-1, in any week shall be paid with respect to that week a benefit in an amount equal to the individual’s weekly benefit amount less that part of the wages (if any) payable to the individual with respect to that week which is in excess of \$2. Effective for weeks beginning January 5, 1992, and thereafter, each eligible individual who is unemployed, as defined in section 383-1, in any week shall be paid with respect to that week a benefit in an amount equal to the individual’s weekly benefit amount less that part of the wages (if any) payable to the individual with respect to that week which is in excess of \$50. Effective for weeks beginning January 1, 2008, and

thereafter, each eligible individual who is unemployed, as defined in section 383-1, in any week shall be paid with respect to that week a benefit in an amount equal to the individual's weekly benefit amount less that part of the wages, if any, payable to the individual with respect to that week which is in excess of \$150. The benefit, if not a multiple of \$1, shall be computed to the next higher multiple of \$1."

SECTION 3. Section 383-61,<sup>1</sup> Hawaii Revised Statutes, is amended to read as follows:

"(c) For the calendar year 1991 only, the term "wages" does not include remuneration in excess of \$7,000 paid with respect to employment to an individual by an employer. For calendar years 2008, 2009, and 2010 only, the term "wages" as used in this part does not include remuneration in excess of \$13,000 paid with respect to employment to an individual by an employer so long as the balance of the unemployment trust fund does not fall below the adequate reserve fund as specified by section 383-63."

SECTION 4. Section 383-63, Hawaii Revised Statutes, is amended by amending the definition of "adequate reserve fund" to read as follows:

"Adequate reserve fund" means an amount that is equal to the amount derived by multiplying the benefit cost rate that is the highest during the ten-year period ending on November 30 of each year by the total remuneration paid by all employers, with respect to all employment for which contributions are payable during the last four calendar quarters ending on June 30 of the same year, as reported on contribution reports filed on or before October 31 of the same year. "Remuneration", as used in this definition, means wages as defined in section 383-10. For the purpose of determining the highest benefit cost rate, the benefit cost rate for the first twelve-consecutive-calendar-month period beginning with the first day of the first month of the ten-year period and for each succeeding twelve-consecutive-calendar-month period beginning with the first day of each subsequent month shall be computed.

Effective for the calendar [year] years 1992 through 2007, and from calendar year 2011 and thereafter, "adequate reserve fund" means an amount that is equal to one and one-half times the amount derived by multiplying the benefit cost rate that is the highest during the ten-year period ending on November 30 of each year by the total remuneration paid by all employers, with respect to all employment for which contributions are payable during the last four calendar quarters ending on June 30 of the same year, as reported on contribution reports filed on or before October 31 of the same year. "Remuneration", as used in this definition, means wages as defined in section 383-10. For the purpose of determining the highest benefit cost rate, the benefit cost rate for the first twelve-consecutive-calendar-month period beginning with the first day of the first month of the ten-year period and for each succeeding twelve-consecutive-calendar-month period beginning with the first day of each subsequent month shall be computed."

SECTION 5. The department of labor and industrial relations shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2011 detailing the effect of this Act on the unemployment compensation fund. The report shall include but not be limited to the:

- (1) Effects of the temporary increase in benefits under section 1 of this Act;
- (2) Lowering of the adequate reserve from eighteen months to twelve months under section 4 of this Act on the ability of the fund to recover without depletion of the reserves, in the event of a significant rise of the unemployment rate;

## ACT 111

- (3) Recommendations to the legislature as to whether or not to make section 1 and section 4 of this Act permanent;
- (4) Historical data and information on the unemployment compensation fund, including an economic analysis of the fund adequacy from 1970 to present; and
- (5) An evaluation of the economic trends from 1970 and its potential effects on the solvency and adequacy of the unemployment fund.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on January 1, 2008.

(Approved May 30, 2007.)

### Note

1. Only subsection (c) set out.

## ACT 111

S.B. NO. 885

A Bill for an Act Relating to Education.

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

### PART I

SECTION 1. The legislature finds that economic growth that benefits all Hawaii residents depends on enhancing the State's human resources.

Providing students with the specific skills needed for job entry and broad, transferable skills that help students to obtain employment in other fields is an integral part of developing these human resources.

Career and technical education that includes:

- (1) Pathway programs of study such as graphic design, computer networking, and management information systems;
- (2) Academies for various focuses of study, including the performing arts, travel, and science, technology, engineering, and mathematics; and
- (3) School activities such as project EAST (environmental and spatial technology) and robotics,

are important in assisting Hawaii's students in gaining the necessary skills required to compete in the global economy.

The legislature further finds that with the decline of the sugar and pineapple industries in Hawaii, agricultural lands are evolving into small diversified agricultural farms. Further, with the demand for landscaping by many public and private businesses, the landscaping industry is purportedly as large as the diversified agriculture industry in Hawaii. The legislature further finds that the need for agricultural workers, including landscaping and other agriculture industry-related workers, runs the gamut in terms of skill level. There is a critical need for government support to establish an educational infrastructure that prepares students for work in the agriculture and agriculture-related industries. Appropriate programs would assist in preparing students, who may not pursue higher education, for jobs that are in demand.

To further ensure the success of Hawaii's students in the global economy, they must be provided with innovative educational programs, particularly in the fields of science, technology, engineering, and mathematics.

Hence, the purpose of this Act is to:

- (1) Support and enhance the career and technical education efforts of both the department of education and University of Hawaii system, as well as other public and private business efforts, to prepare Hawaii's students for further education and employment;
- (2) Broaden the agriculture education program of the department of education to offer educational opportunities in the fields of farming, diversified agriculture, landscaping, and related fields such as market development and science and technology, and require its coordination with culinary arts programs;
- (3) Provide contextual learning experiences such as participation in robotics;
- (4) Make an array of experiential learning opportunities available to students to afford them experience in the working world, improve their career choices, and provide opportunities for local employers to network with the future workforce; and
- (5) Improve the quality of teaching in science, technology, engineering, and mathematics at Hawaii's public schools by providing professional development opportunities for practicing teachers, as well as attracting to the teaching profession highly qualified individuals who hold degrees in these subject areas.

## PART II

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§302A- Career and technical education program.** The department shall establish and administer a career and technical education program that shall meet the requirements of the federal Perkins Act of 2006. The department's program may include:

- (1) Pathway programs of study, including but not limited to natural resources, graphic design, computer networking, and management information systems;
- (2) Academies for various focuses of study, including the performing arts, travel, and science, technology, engineering, and mathematics;
- (3) An agriculture education program;
- (4) Specialized programs, including project EAST (environmental and spatial technology); and
- (5) Other school activities, including robotics.

The department's program may be offered jointly by or in partnership between the department, the University of Hawaii, including its community colleges, or other public or private entities.”

## PART III

SECTION 3. Section 302A-431.7, Hawaii Revised Statutes, is amended to read as follows:

**“~~[E]§302A-431.7[ ] Vocational agriculture~~ Agriculture education program. (a) The department shall establish and administer a ~~[v]ocational~~ comprehensive agriculture education program~~[.]~~ aligned with the natural resources career pathway. The agriculture education program shall include adequate staffing of individuals trained or experienced in the field of ~~[v]ocational~~ agriculture to coordinate the program and to provide assistance to school ~~[d]istricts~~ complexes for**

the coordination of the activities of related student [agricultural] organizations and associations.

(b) The [vœational] agriculture education program shall be administered by a director who shall:

- (1) [Assess] Assist in assessing the agricultural needs of the [State] state and devise methods of meeting those needs with the [vœational] agriculture education program;
- (2) Assist school districts in establishing [vœational] agriculture education programs;
- (3) Review school district applications for approval of [vœational] agricul-  
ture education programs;
- (4) Evaluate existing programs[;] and design complementary programs;
- (5) Plan research and studies for the improvement of curriculum materials for specialty areas of [vœational] agriculture[;], including aquaculture and incumbent worker training;
- (6) Ensure that the standards and criteria developed under this section satisfy the mandates of federally-assisted [vœational] career and technical education;
- (7) Develop in-service programs for teachers and administrators of [vœational] agriculture[;] education programs;
- (8) Review applications for [vœational] agriculture teacher certification;
- (9) Assist in teacher recruitment and placement in [vœational] agriculture education programs;
- (10) Serve as a liaison with the Future Farmers of America, representatives of business, industry, appropriate public agencies, and institutions of higher education, including the Hawaii Farm Bureau Federation, to facilitate dissemination of information;
- (11) Promote improvement of [vœational] agriculture education programs; and
- (12) Assist in the development of adult [and], continuing education, and college-level education programs in [vœational] agriculture[;]<sup>1</sup>
- ~~(13) Establish an advisory task force of agriculturists, who represent the diverse areas of the agricultural industry in the State, that shall make annual recommendations on the development of curriculum, staffing, and strategies to establish a source of trained and qualified individuals in agriculture and strategies for developing the state program in vocational agriculture education, including youth leadership throughout the public schools.~~

(c) The agriculture education program shall coordinate with culinary arts programs to teach students healthy eating habits and encourage culinary arts, farming, diversified agriculture, and related fields such as market development and science and technology, as career options. The department of agriculture shall assist the department with the implementation of this program.

~~(e)~~ (d) The department may adopt rules pursuant to chapter 91 to effectuate this section.

(e) For purposes of this section, “agriculture” or “agricultural” includes the fields of farming, diversified agriculture, landscaping, aquaculture, and related industries such as market development and science and technology.”

SECTION 4. The department of education shall consult with the department of agriculture and the University of Hawaii’s college of tropical agriculture and human resources and college of education in the development and implementation of the agriculture education program established under this Act.

SECTION 5. The department of education shall submit a report to the legislature regarding:

- (1) Its activities toward implementation of the agriculture education program;
- (2) Its coordination between the agriculture education and culinary arts programs; and
- (3) Any requests for funding to further implement the agriculture education program,

no later than twenty days prior to the convening of the regular sessions of 2008 and 2009. The first report shall include a description of department activities between July 1, 2006, and June 30, 2007, toward implementing Act 233, Session Laws of Hawaii 2006, codified as section 302A-431.7, Hawaii Revised Statutes, which established a vocational agriculture education program.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$350,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 to support and maintain a comprehensive agriculture education program in the public schools as provided in section 3 of this part.

The sums appropriated shall be expended by the department of education for the purposes of section 3 of this part.

#### PART IV

SECTION 7. There is established the Hawaii excellence through science and technology academy pilot program to be administered by Kauai community college, in partnership with the department of education, at two public schools. The purpose of the pilot program shall be to establish science, technology, engineering, and mathematics academies, which may include an applied learning focus, at the public schools and to add resources and support to the department of education to increase the readiness and motivation of Hawaii high school graduates to pursue post-secondary training and career options in science, technology, engineering, and mathematics disciplines.

SECTION 8. Kauai community college, in collaboration with the department of education, shall submit reports to the legislature as follows:

- (1) A progress report on its plans for the pilot program, no later than twenty days prior to the convening of the regular session of 2008;
- (2) A progress report on its implementation of the pilot program, no later than twenty days prior to the convening of the regular session of 2009; and
- (3) A final report on the pilot program, including associated costs and any recommendations for the expansion of the academies to other public schools, no later than twenty days prior to the convening of the regular session of 2010.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$261,020 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 to establish the Hawaii excellence through science and technology academy pilot program, including three positions within Kauai community college.

The sums appropriated shall be expended by Kauai community college for the purposes of this part.

SECTION 10. There is appropriated out of the general revenues of the State of Hawaii the sum of \$26,730 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for a position within the department of education to collaborate with Kauai community college to establish the Hawaii excellence through science and technology academy pilot program.

The sums appropriated shall be expended by the department of education for the purposes of this part.

PART V

SECTION 11. Chapter 304A, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**“§304A-A Fostering inspiration and relevance through science and technology pre-academy program; established.** (a) There is established within the University of Hawaii, the fostering inspiration and relevance through science and technology pre-academy program, which shall be administered by the University of Hawaii college of engineering. The mission of the fostering inspiration and relevance through science and technology pre-academy program shall be, with respect to middle schools, to provide additional resources and expertise for the department of education to stimulate the interest and achievement of students in science, technology, engineering, and mathematics skills.

To achieve its mission, the fostering inspiration and relevance through science and technology pre-academy program shall house and provide direction for the robotics and problem-based, applied learning program under section 304A-B and the research experiences for teachers program under section 304A-C.

(b) The goals of the pre-academy program shall be to:

- (1) Serve students between fourth and eighth grades, with problem-based, applied learning experiences in science, technology, engineering, and mathematics-related skills in a manner that complements the academic program at public high schools; and
- (2) Motivate and engage students in science, technology, engineering, and mathematics programs.

(c) The pre-academy program shall encourage partnerships with other relevant programs within the University of Hawaii system, department of education, project EAST (environmental and spatial technology) program, and appropriate public and private agencies, to establish a program of problem-based, applied learning for elementary and middle school students in science, technology, engineering, and mathematics disciplines. School participation in the fostering inspiration and relevance through science and technology pre-academy programs shall be voluntary.

(d) The fostering inspiration and relevance through science and technology pre-academy program shall support development of additional problem-based, applied learning projects and summer science, technology, engineering, and mathematics programs for middle school teachers. For additional problem-based, applied learning projects, priority shall be determined in collaboration with participating teachers. Areas may include global positioning system technology, ocean science, astronomy, earth science and wireless communications technology, conservation biology, and other science, technology, engineering, and mathematics skills-stimulating subjects as appropriate.

(e) The fostering inspiration and relevance through science and technology pre-academy program shall develop program evaluation measures to ensure that all programs conducted under the pre-academy program are contributing to the ad-

vancement of science, technology, engineering, and mathematics academics in the elementary and middle schools through research.

**§304A-B Robotics and problem-based, applied learning program; established.** (a) There is established within the University of Hawaii the robotics and problem-based, applied learning program, which shall be administered by the University of Hawaii college of engineering. The mission of the robotics and problem-based, applied learning program shall be to develop science, technology, engineering, and mathematics skills among students in the fostering inspiration and relevance through science and technology pre-academy program through robotics- and problem-based, applied learning projects and competitions. The robotics and problem-based, applied learning program shall work with existing programs to expand and strengthen activities, including but not limited to National Aeronautics and Space Administration explorer schools; fostering inspiration and relevance through science and technology robotics, lego league, and vex challenges or competitions; botball educational robotics programs; and underwater robotics challenges.

(b) The robotics and problem-based, applied learning program shall coordinate and cooperate with the fostering inspiration and relevance through science and technology pre-academy program in establishing an integrated system of science, technology, engineering, and math-related, problem-based, applied learning programs under the administration of the pre-academy program. The robotics and problem-based, applied learning program shall enlist, encourage, train, and support volunteer teachers and other mentors to conduct robotics and space-related programs at the school level.

**§304A-C Research experiences for teachers program; established.** (a) There is established within the University of Hawaii the research experiences for teachers program, which shall be administered by the University of Hawaii college of engineering. The purpose of the research experiences for teachers program shall be to support the development of middle school teacher skills and knowledge, and the development of middle school curriculum materials in science, technology, engineering, and mathematics subject areas, with a focus on wireless communications.

(b) The research experiences for teachers program shall:

- (1) Educate teachers in the advances in technology in wireless communications and engineering;
- (2) Enhance teacher research skills through the use of software and innovative uses of equipment;
- (3) Provide teacher participants with hands-on research experiences;
- (4) Support teachers in developing classroom lessons and program activities that meet their course objectives and student performance standards; and
- (5) Provide opportunities to share and collaborate with other teacher participants to ensure successful implementation of curricula and programs.

(c) Specific activities of the research experiences for teachers program shall include:

- (1) Providing on-site lectures, demonstrations, and laboratory tours at the University of Hawaii and middle schools;
- (2) Reviewing wireless communications concepts, methods, history, and applications;
- (3) Reviewing engineering and relevant science concepts, research methodology, and real-world applications;
- (4) Reviewing key components of inquiry-based teaching materials;
- (5) Providing teachers with technical content support;

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- (6) Assisting teachers in adapting state-of-the-art engineering research into a meaningful classroom experience for students;
- (7) Providing seminars to transfer relevant information and experiences among teacher participants and sponsors;
- (8) Providing summer engineering workshop for teachers; and
- (9) Maintaining a website for content and program dissemination.”

SECTION 12. There is appropriated out of general revenues of the State of Hawaii the sum of \$1,402,230 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 to establish the fostering inspiration and relevance through science and technology pre-academy program, including nine full-time equivalent (9.00 FTE) positions in the University of Hawaii college of engineering; provided that the sums appropriated shall be allocated as follows:

- (1) \$314,925 for fiscal year 2007-2008 and the same sum for fiscal year 2008-2009 for the robotics and problem-based, applied learning program; and
- (2) \$734,805 for fiscal year 2007-2008 and the same sum for fiscal year 2008-2009 for the research experiences for teachers program.

The sums appropriated shall be expended by the University of Hawaii for the purposes of this part.

### PART VI

SECTION 13. (a) There is established within the department of business, economic development, and tourism, the business/education internship and mentorship program. The purpose of this program is to establish, with the cooperation of educational institutions, internship, mentorship, and other experiential learning arrangements within the business, nonprofit, and government sectors, for Hawaii high school students and Hawaii high school graduates attending college in Hawaii or elsewhere. The goals of this program shall be to provide Hawaii students with experience in the working world to improve their career choices and to provide opportunities for Hawaii employers to establish relationships with students who represent an essential source of skills for Hawaii's future economic growth and prosperity.

(b) The department of business, economic development, and tourism shall coordinate with the department of education and may contract with appropriate government, nonprofit, or for-profit entities to accomplish the purpose and goals of this program.

(c) The department of business, economic development, and tourism shall submit a report to the legislature, no later than twenty days prior to the convening of the regular session of 2009, on its implementation of the business/education internship and mentorship program.

SECTION 14. 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 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for the business/education internship and mentorship program.

The sums appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this part.

### PART VII

SECTION 15. (a) There is established within the University of Hawaii a professional development program to provide practicing elementary, middle, and high school science and mathematics teachers with opportunities to increase their

knowledge and understanding of recent developments in science, technology, engineering, and mathematics. The professional development program shall be administered by the University of Hawaii college of education and shall be open to both certificated and non-certificated teachers. Design of the professional development program shall include evaluation of best practices in other school jurisdictions.

(b) Recognizing that the year-round public school calendar has shortened the summer period, that not all schools are on the same academic calendar, and that programs throughout the year, offered in a variety of formats, would facilitate immediate implementation in the classroom, the professional development program shall provide a variety of options designed to meet the specific needs of Hawaii's teachers, which may include summer institutes, a combination of summer, after school, or weekend institutes, distance learning through video conferencing or other mechanisms, neighbor island locations, or other options.

(c) The University of Hawaii college of education shall submit a report to the legislature, no later than twenty days prior to the convening of the regular session of 2009, on its implementation of the professional development program in the science, technology, engineering, and mathematics disciplines for teachers, including the number of teachers who have participated in the program.

SECTION 16. There is appropriated out of the general revenues of the State of Hawaii the sum of \$175,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for the development of professional development programs in the science, technology, engineering, and mathematics disciplines for practicing teachers.

The sums appropriated shall be expended by the University of Hawaii for the purposes of this part.

## PART VIII

SECTION 17. The legislature finds that there is a chronic shortage of science and mathematics teachers. The recruitment of potential science, technology, engineering, and mathematics teachers for post baccalaureate certificate programs is difficult, but providing the incentive of stipends for individuals to participate in such programs has proven to be effective.

The federal Transition To Teaching program is a successful recruitment program that provides stipends as incentives for people who hold degrees in science, technology, engineering, and mathematics subjects to obtain their teaching certificates through the University of Hawaii's post baccalaureate certificate in secondary education program. The program has resulted in ninety new qualified mathematics and science teachers since it began four-and-a-half years ago.

The program is currently funded under the United States Department of Education's Transition To Teaching program, but the University of Hawaii's transition to teaching grant will expire in 2008. The purpose of this part is to appropriate funds to allow the program to continue.

SECTION 18. The University of Hawaii shall submit a report to the legislature, no later than twenty days prior to the convening of the regular session of 2009, on the status of the transition to teaching program, including the number of individuals who have participated in and completed the program.

SECTION 19. There is appropriated out of the general revenues of the State of Hawaii the sum of \$175,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for the transition to teaching program to provide stipends to attract

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science, technology, engineering, and mathematics graduates to the University of Hawaii post baccalaureate certificate in secondary education program.

The sums appropriated shall be expended by the University of Hawaii for the purposes of this part.

### PART IX

SECTION 20. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

SECTION 21. This Act shall take effect on July 1, 2007.

(Approved May 30, 2007.)

#### Notes

1. Prior to amendment “and” appeared here.
2. Edited pursuant to HRS §23G-16.5.

## ACT 112

H.B. NO. 1529

A Bill for an Act Relating to Legislative Scholarship Programs at the University of Hawaii.

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

SECTION 1. The Senator Hiram L. Fong commission established by the legislature through Act 117, Session Laws of Hawaii 2005, found that Senator Fong’s public service of over thirty years was distinguished by his ability to bridge partisan and ethnic lines. Senator Fong championed civil rights, labor rights, and immigration reform. He helped pass the Little Wagner Act, which gave Hawaii’s agricultural workers who were not covered under the federal Wagner Act, the right to unionize. Senator Fong was also a firm believer in the free market and the virtues of personal responsibility and self-reliance.

The commission also found that Senator Fong’s legislative accomplishments were the result of collaboration and cooperation from his democratic colleagues, particularly Hawaii’s other United States senator, Oren E. Long, and United States Senate majority leader, Lyndon Johnson. Federal legislation to establish the East-West Center was introduced by Senator Oren E. Long and its ultimate success is due in large part to his and Senator Hiram L. Fong’s leadership and collaboration.

The commission recommended that the legislature establish the Senator Hiram L. Fong scholarship at the University of Hawaii. The commission also suggested that Senator Oren E. Long be honored for his forty-one years of public service, which included service as superintendent of public instruction for twelve years, secretary of the territory of Hawaii, governor of Hawaii, and United States Senator.

The purpose of this Act is to establish two scholarship programs—one in honor of Senator Hiram L. Fong and the other in honor of Senator Oren E. Long—to be administered by the University of Hawaii, with proceeds from endowment trusts that shall receive initial funding by appropriations out of the general revenues of the State.

The legislature finds and declares that the appropriations under this Act are in the best interest of the public in helping to provide public higher education assistance opportunities.

SECTION 2. Chapter 304A, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§304A- The Senator Hiram L. Fong scholarship program; endowment trust.** (a) There is established the Senator Hiram L. Fong scholarship program to be administered by the university with proceeds from an endowment trust that shall receive its initial funding by an appropriation out of the general revenues of the State. The program shall provide financial support to students enrolled at any campus of the university.

(b) Awards shall be granted annually to one female student and one male student who:

- (1) Are graduates of a public high school in the State;
- (2) Are upperclassmen at the university;
- (3) Submit winning essays to the board of regents on the senator’s contributions to Hawaii;
- (4) Have a demonstrated commitment to local community issues, as shown by volunteer work and participation in community organizations; and
- (5) Have a demonstrated interest and knowledge of the history of immigration to Hawaii.

(c) The amount to be awarded to a student shall be determined by the board of regents with due regard to the total amount of funds available for the program. The award that a student receives under this program may be used to:

- (1) Pay for the costs of tuition and fees for a single academic year;
- (2) Pay for the costs of textbooks and other instructional materials for a single academic year;
- (3) Pay for the costs of room and board at a dormitory or apartment maintained by the university for a single academic year; or
- (4) Defray the difference between student need, as determined by the Free Application for Federal Student Aid, and the total cost of attendance for a single academic year.

(d) The board of regents shall adopt rules to implement the Senator Hiram L. Fong scholarship program. The rules shall be adopted pursuant to chapter 91 but shall be exempt from the public notice and public hearing requirements.

(e) The scholarship program shall be funded with proceeds from an endowment trust established with initial funding by an appropriation out of the general revenues of the State and shall be administered by the board of regents for the purposes of supporting the Senator Hiram L. Fong scholarship program.

**§304A- The Senator Oren E. Long scholarship program; endowment trust.** (a) There is established the Senator Oren E. Long scholarship program to be administered by the university with proceeds from an endowment trust that shall receive its initial funding by an appropriation out of the general revenues of the State. The program shall provide financial support to students enrolled at any campus of the university.

(b) Awards shall be granted annually to one female student and one male student who:

- (1) Are graduates of a public high school in the State;
- (2) Are upperclassmen at the university; and
- (3) Submit winning essays to the board of regents on the senator’s contributions to Hawaii.

(c) The amount to be awarded to a student shall be determined by the board of regents with due regard to the total amount of funds available for the program. The award that a student receives under this program may be used to:

- (1) Pay for the costs of tuition and fees for a single academic year;

- (2) Pay for the costs of textbooks and other instructional materials for a single academic year;
- (3) Pay for the costs of room and board at a dormitory or apartment maintained by the university for a single academic year; or
- (4) Defray the difference between student need, as determined by the Free Application for Federal Student Aid, and the total cost of attendance for a single academic year.

(d) The board of regents shall adopt rules to implement the Senator Oren E. Long scholarship program. The rules shall be adopted pursuant to chapter 91 but shall be exempt from the public notice and public hearing requirements.

(e) The scholarship program shall be funded with proceeds from an endowment trust established with initial funding by an appropriation out of the general revenues of the State and shall be administered by the board of regents for the purposes of supporting the Senator Oren E. Long scholarship program.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the University of Hawaii to establish an endowment trust with an appropriate financial institution, the proceeds from which shall fund the Senator Hiram L. Fong scholarship; provided that the University of Hawaii shall administer the scholarship in accordance with the report of November 17, 2005, submitted to the legislature from the Senator Hiram L. Fong commission.

The sum appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the University of Hawaii to establish an endowment trust with an appropriate financial institution, the proceeds from which shall fund the Senator Oren E. Long scholarship; provided that the University of Hawaii shall administer the scholarship.

The sum appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved May 31, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 113**

H.B. NO. 843

A Bill for an Act Relating to Kahuku Hospital.

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

SECTION 1. The legislature finds that Kahuku hospital has been serving the residents of the north shore of Oahu from Kualoa to Waimea Bay, with a population of about twenty-seven thousand, since 1929. Kahuku hospital is a twenty-five-bed facility that has provided an array of health care services, including emergency care, general acute care, surgery, skilled nursing, ancillary care, and health education.

It is one of nine hospitals in Hawaii with a federal medicare designation as a critical access hospital, which allows it to annually receive higher reimbursements amounting to about \$1,000,000 in additional revenue.

On November 6, 2006, the board of directors of Kahuku hospital voted to file for chapter 7 bankruptcy and close down the hospital on December 31, 2006, because of continuing operating losses of about \$1,500,000 a year, a sum that has now reached \$3,500,000. If such a closure was to occur, the hospital would lose its hospital license, its certificate of need, and its critical access hospital designation, all of which would require time and expense for another hospital to obtain, effectively shutting down hospital-based health care services in the area for an indefinite period. Closing down Kahuku hospital would pose a grave threat to the health and safety of all residents on the north shore and windward areas of Oahu, who would have to drive either twenty-two miles to Wahiawa general hospital or thirty-two miles to Castle Medical Center in Kailua for hospital-based care, with both trips requiring driving over an hour along a single-access road that is periodically closed by inclement weather or traffic mishaps.

Accordingly, the legislature finds that it is in the public interest to keep Kahuku hospital operating to serve the residents of the north shore of Oahu by enabling it to file for chapter 11 rather than chapter 7 bankruptcy, which would allow the hospital to:

- (1) Continue operations;
- (2) Preserve its hospital license;
- (3) Retain its certificate of need and critical access hospital designation;
- (4) Reorganize; and
- (5) Settle its debts.

The purpose of this Act is to authorize the Hawaii health systems corporation to bring Kahuku hospital under its governance through formal affiliation with the corporation and to provide for transitional facilitation by the director of health.

SECTION 2. Chapter 323F, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§323F- Acquisition of Kahuku hospital.** (a) Kahuku hospital on Oahu may be assimilated into the Hawaii health systems corporation in a manner and to an extent that may be negotiated between the corporation and Kahuku hospital. After assimilation, the physical assets and the ground lease of Kahuku hospital shall become the property of the corporation, and Kahuku hospital shall be operated by the corporation.

(b) None of the liabilities of Kahuku hospital shall become liabilities of the corporation.

(c) The corporation, at its discretion, may retain any or all medical and nonmedical employees of Kahuku hospital.

(d) The corporation, without regard to section 323F-31, may adjust the levels of services provided by Kahuku hospital.

(e) Kahuku hospital shall be exempt from chapter 102 and section 103-53, and its board of directors, if any, shall be exempt from part I of chapter 92.

(f) The purchase of goods and services by or on behalf of Kahuku hospital shall be exempt from chapters 103D and 103F.

(g) Employees of Kahuku hospital shall be exempt from chapters 76, 87A, 88, and 89, and shall not be considered as employees of the State.”

SECTION 3. **Kahuku hospital; acquisition by Hawaii health systems corporation; transitional facilitation by the director of health.** The director of health, as an interested third party, shall act in the role of honest broker to help

## ACT 114

facilitate the successful acquisition of Kahuku hospital by the Hawaii health systems corporation during the transition period. To that end, the acquisition shall be exempt from part VII of chapter 323D, Hawaii Revised Statutes, relating to hospital acquisition.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,900,000 or so much thereof as may be necessary for fiscal year 2007-2008 to carry out the purposes of this Act, including the hiring of necessary staff.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval; provided that section 4 shall take effect on July 1, 2007, and section 3 shall be repealed upon:

- (1) The receipt of a letter by the director of health from the board of directors of the Hawaii health systems corporation officially notifying the director of health that the acquisition of Kahuku hospital by the corporation has been successfully completed; and
- (2) The issuance of a proclamation by the governor that the events in paragraph (1) have occurred.

(Approved May 31, 2007.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 114

S.B. NO. 1665

A Bill for an Act Relating to Animals.

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

SECTION 1. The purpose of this Act is to strengthen Hawaii's animal cruelty laws.

SECTION 2. Chapter 711, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§711-A Cruelty to animals in the first degree.** (1) A person commits the offense of cruelty to animals in the first degree if the person intentionally or knowingly tortures, mutilates, or poisons or causes the torture, mutilation, or poisoning of any pet animal resulting in serious bodily injury or death of the pet animal.

(2) Subsection (1) shall not apply to:

- (a) Accepted veterinary practices;
- (b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or
- (c) Cropping or docking as customarily practiced.

(3) Whenever any pet animal is so severely injured that there is no reasonable probability that its life can be saved, the pet animal may be immediately destroyed without creating any offense under this section.

(4) Cruelty to animals in the first degree is a class C felony.”

SECTION 3. Section 711-1100, Hawaii Revised Statutes, is amended to read as follows:

“§711-1100 Definitions. In this chapter, unless a different meaning is plainly required, or the definition is otherwise limited by this section:

“Animal” includes every living creature, except a human being.

[“Cruelty”, “torture” or “torment” includes every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.]

“Facsimile” means a document produced by a receiver of signals transmitted over telecommunication lines, after translating the signals, to produce a duplicate of an original document.

“Necessary sustenance” means care sufficient to preserve the health and well-being of a pet animal, except for emergencies or circumstances beyond the reasonable control of the owner or caretaker of the pet animal, and includes but is not limited to the following requirements:

- (1) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;
- (2) Open or adequate access to water in sufficient quantity and quality to satisfy the animal’s needs;
- (3) Access to protection from wind, rain, or sun; and
- (4) An area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal’s health.

“Obstructs” means renders impassable without unreasonable inconvenience or hazard.

“Pet animal” means a dog, cat, domesticated rabbit, guinea pig, [~~domestic rat or mouse,~~] domesticated pig, or caged birds (passeriformes, piciformes, and psittaciformes only)[~~]~~ so long as not bred for consumption.

“Private place” means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access.

“Public” means affecting or likely to affect a substantial number of persons.

“Public place” means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

“Record”, for the purposes of sections 711-1110.9 and 711-1111, means to videotape, film, photograph, or archive electronically or digitally.

“Torment” means fail to attempt to mitigate substantial bodily injury with respect to a person who has a duty of care to the animal.

“Torture” includes every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.”

SECTION 4. Section 711-1109, Hawaii Revised Statutes, is amended to read as follows:

“§711-1109 Cruelty to animals[~~]~~ in the second degree. (1) A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly:

- (a) Overdrives, overloads, tortures, torments, [~~eruelly~~] beats, causes substantial bodily injury, or starves any animal, or causes [~~or proeures~~] the overdriving, overloading, torture, torment, [~~eruel~~] beating, or starving

of any animal, or deprives a pet animal of necessary sustenance or causes such deprivation;

- (b) Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests;
- (c) Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, [dog,] cock, or other animal, and every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;
- (d) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner; or
- (e) Assists another in the commission of any act [~~of cruelty to any animal.~~] specified in subsections (1)(a) through (1)(d).

(2) Subsection (1)(a), (b), (d), and (e),<sup>1</sup> [~~and the following subsection (3) are~~] shall not [~~applicable~~] apply to [~~accepted~~]:

- (a) Accepted veterinary practices [~~and to activities~~];
- (b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices[-]; or
- (c) Pest control operations conducted pursuant to chapter 149A by a pest control operator licensed pursuant to chapter 460J, if the pest control is performed under a written contract.

(3) Whenever any [~~domestic~~] animal is so severely injured that there is no reasonable probability that its life or usefulness can be saved, the animal may be immediately destroyed[-] without creating any offense under this section.

(4) Cruelty to animals in the second degree is a misdemeanor.”

SECTION 5. Section 711-1109.1, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) If there is probable cause to believe that a pet animal is being subjected to treatment in violation of section 711-1109, 711-, or 711-1109.3, a law enforcement officer, after obtaining a search warrant or in any other manner authorized by law, may enter the premises where the pet animal is located to provide the pet animal with food, water, and emergency medical treatment or to impound the pet animal. If after reasonable effort, the owner or person having custody of the pet animal cannot be found and notified of the impoundment, an impoundment notice shall be conspicuously posted on the premises and within seventy-two hours after posting, the notice shall be sent by certified mail to the address, if any, from which the pet animal was removed.”

SECTION 6. Section 711-1109.2<sup>2</sup> is amended as follows:

1. By amending subsection (1) to read:

“(1) If any pet animal is impounded pursuant to section 711-1109.1, prior to final disposition of the criminal charge under section 711-1109, 711-, or 711-1109.3 against the pet animal’s owner, any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals that is holding the pet animal may file a petition in the criminal action requesting that the court issue an order for forfeiture of the pet animal to the county or to the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.”

## 2. By amending subsection (3) to read:

“(3) At a hearing conducted pursuant to subsection (2), the petitioner shall have the burden of establishing probable cause that the pet animal was subjected to a violation of section 711-1109, 711-, or 711-1109.3. If the court finds that probable cause exists, the court shall order immediate forfeiture of the pet animal to the petitioner, unless the defendant, within seventy-two hours of the hearing:

- (a) Posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the pet animal from the date of initial impoundment to the date of trial; or
- (b) Demonstrates to the court that proper alternative care has been arranged for the pet animal.

Notwithstanding subsection (3)(a), a court may waive, for good cause shown, the requirement that the defendant post a security deposit or bond.”

## 3. By amending subsection (5) to read:

“(5) No pet animal may be destroyed by a petitioner under this section prior to final disposition of the criminal charge under section 711-1109, 711-, or 711-1109.3 against the pet animal’s owner, except in the event that the pet animal is so severely injured that there is no reasonable probability that its life can be saved.”

SECTION 7. Section 711-1110.5, Hawaii Revised Statutes, is amended to read as follows:

“**§711-1110.5 Surrender or forfeiture of animals.** Upon conviction, guilty plea, or plea of nolo contendere for any violation of section 711-1109, 711-, or 711-1109.3:

- (1) The court may order the defendant to surrender or forfeit the animal whose treatment was the basis of the conviction or plea to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order; and
- (2) The court also may order the defendant to surrender or forfeit any other animals under the possession, custody, or control of the defendant to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order, if there is substantial evidence that the animals are being abused or neglected.

The court shall order the defendant to reimburse the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for reasonable costs incurred to care, feed, and house any animal that is surrendered or forfeited pursuant to this section.”

SECTION 8. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 9. In codifying the new section added by section 2 of this Act, the revisor of statutes shall substitute an appropriate section number for the letter used in designating the new section in this Act.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>3</sup>

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

(Approved June 1, 2007.)

Notes

- 1. Comma should be underscored.
- 2. So in original.
- 3. Edited pursuant to HRS §23G-16.5.

ACT 115

S.B. NO. 603

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 the two important purposes for charter schools are to:

- (1) Provide administrators, parents, students, and teachers with expanded alternative public school choices in the types of schools, educational programs, opportunities, and settings, including services for underserved populations, geographical areas, and communities; and
- (2) Encourage and, when resources and support are provided, serve as a research venue for the development, use, and dissemination of alternative and innovative approaches to educational governance, financing, administration, curricula, technology, and teaching strategies.

However, the legislature finds that confusion continues over the appropriate relationship between and among the board of education, the executive director of the charter school administrative office, and the involvement of charter schools in providing necessary input and participating in the evaluation of the executive director. Many believe the level of autonomy required by the executive director and the charter school administrative office to fully implement the law has not been realized.

The legislature also finds that the board of education has an increasingly complex and challenging task in the administration and oversight of department of education schools and in the implementation of Act 51, Session Laws of Hawaii 2004. With part-time members, and a relatively small support staff, the board cannot devote the appropriate amount of time, focus, energy, and resources necessary to carry out all the duties of a charter school authorizer, from approving new charters and ensuring accountability, to proactively supporting the charter schools to ensure their success. The lengthy amount of time it took the board to appoint the members of the review panel and the delays in development of proposed administrative rules illustrate an increasingly frustrating situation. Moreover, the time devoted to understanding and implementing the duties of a charter school authorizer is time taken away from the critical tasks of holding all public schools accountable.

Consequently, to dedicate the appropriate focus, time, knowledge, and resources on both traditional department of education public schools and charter schools, the legislature believes that certain important and time-consuming duties of charter school authorization and oversight should be delegated to the charter school review panel. However, it is not the intent of the legislature that this Act alters or affects the board of education's role as the state education agency for the State.

The purpose of this Act is to, among other things:

- (1) Clarify the significant role of the board of education in policymaking for charter schools, including:
  - (A) Appointing members of the charter school review panel; and

- (B) Serving as an appeals board for charter school applicants or charter schools that do not agree with the decisions of the charter school review panel;
- (2) Delegate to the charter school review panel the responsibilities to:
  - (A) Approve or deny charter applications for new charter schools;
  - (B) Issue and revoke charters, and place charter schools on probation;
  - (C) Approve or deny amendments to detailed implementation plans;
  - (D) Conduct charter school evaluations; and
  - (E) Appoint and evaluate the executive director of the charter school administrative office;
- (3) Change the membership of the panel;
- (4) Clarify how the executive director of the charter school administrative office is appointed and evaluated;
- (5) Shift the burden of providing staff and resources for the charter school review panel from the board of education to the charter school administrative office; and
- (6) Update the charter school funding mechanism, including ensuring that funding allocations to the charter schools are based on the most recent department of education budget base.

SECTION 2. Chapter 302B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§302B- Appeals; charter school applications, revocations, or detailed implementation plan amendments.** The board shall have the power to decide appeals from decisions of the panel to deny the approval of a charter school application, revoke a charter school’s charter, or deny the approval of an amendment to a charter school’s detailed implementation plan. An appeal shall be filed with the board within twenty-one calendar days of the receipt of the notification of denial or revocation. Only a party whose charter school application has been denied, whose charter has been revoked, or whose amendment to a detailed implementation plan has been denied may initiate an appeal under this section for cause. The board shall review an appeal and issue a final decision within sixty calendar days of the filing of the appeal. The board may adopt applicable rules and procedures pursuant to chapter 91 for implementing the appeals process.”

SECTION 3. Section 89-6, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) The following individuals shall not be included in any appropriate bargaining unit or be entitled to coverage under this chapter:

- (1) Elected or appointed official;
- (2) Member of any board or commission; provided that nothing in this paragraph shall prohibit a member of a collective bargaining unit from serving on a local school board of a charter school or the charter school review panel established under chapter 302B;
- (3) Top-level managerial and administrative personnel, including the department head, deputy or assistant to a department head, administrative officer, director, or chief of a state or county agency or major division, and legal counsel;
- (4) Secretary to top-level managerial and administrative personnel under paragraph (3);
- (5) Individual concerned with confidential matters affecting employee-employer relations;

- (6) Part-time employee working less than twenty hours per week, except part-time employees included in bargaining unit (5);
- (7) Temporary employee of three months' duration or less;
- (8) Employee of the executive office of the governor or a household employee at Washington Place;
- (9) Employee of the executive office of the lieutenant governor;
- (10) Employee of the executive office of the mayor;
- (11) Staff of the legislative branch of the State;
- (12) Staff of the legislative branches of the counties, except employees of the clerks' offices of the counties;
- (13) Any commissioned and enlisted personnel of the Hawaii national guard;
- (14) Inmate, kokua, patient, ward, or student of a state institution;
- (15) Student help;
- (16) Staff of the Hawaii labor relations board;
- (17) Employee of the Hawaii national guard youth challenge academy; or
- (18) ~~Employees~~ Employee of the office of elections."

SECTION 4. Section 302A-101, Hawaii Revised Statutes, is amended by amending the definition of "charter school review panel" or "panel" to read as follows:

"~~“Charter school review panel” or “panel” means the panel established in section 302B-3 [with the powers and duties to make recommendations to the board regarding charter schools].”~~

SECTION 5. Section 302A-1101, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The board shall appoint the charter school review panel, which shall serve as the charter authorizer for charter schools, with the power and duty to issue charters, oversee and monitor charter schools, hold charter schools accountable for their performance, and revoke charters."

SECTION 6. Section 302B-1, Hawaii Revised Statutes, is amended by amending the definitions of "charter school review panel" or "panel", "detailed implementation plan", "local school board", and "organizational viability" to read as follows:

"~~“Charter school review panel” or “panel” means the panel established pursuant to section 302B-3 with the powers and duties to [advise and make recommendations to the board regarding issuance and revocation of] issue and revoke charters, approve detailed implementation plan revisions, and conduct charter school evaluations.~~

"Detailed implementation plan" means the document that details the charter school's purpose, focus, operations, organization, finances, and accountability, and becomes the basis for a performance contract between the [board] panel and the charter school.

"Local school board" means the autonomous governing body of a charter school that receives the charter and is responsible for the financial and academic viability of the charter school[;] and implementation of the charter, [and] possesses the independent authority to determine the organization and management of the school, the curriculum, virtual education, and compliance with applicable federal and state laws, [~~and that~~] has the power to negotiate supplemental collective bargaining agreements with exclusive representatives of their employees.

“Organizational viability” means that a charter school:

- (1) Has been duly constituted in accordance with its charter;
- (2) Has a local school board established in accordance with law and the charter school’s charter;
- (3) Employs sufficient faculty and staff to provide the necessary educational program and support services to operate the facility in accordance with its charter;
- (4) Maintains accurate and comprehensive records regarding students and employees as determined by the office;
- (5) Meets appropriate standards of student achievement;
- (6) Cooperates with board, panel, and office requirements in conducting its functions;
- (7) Complies with applicable federal, state, and county laws and requirements;
- (8) In accordance with office guidelines and procedures, is financially sound and fiscally responsible in its use of public funds, maintains accurate and comprehensive financial records, operates in accordance with generally accepted accounting practices, and maintains a sound financial plan;
- (9) Operates within the scope of its charter and fulfills obligations and commitments of its charter;
- (10) Complies with all health and safety laws and requirements; and
- (11) Complies with all [board] panel directives, policies, and procedures.”

SECTION 7. Section 302B-3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) to (d) to read:

“(a) There is established the charter school review panel, which shall be placed within the department for administrative purposes only. The panel shall be accountable to ~~[and report to]~~ the charter schools and the board. Notwithstanding section 302B-9, the panel shall be subject to chapter 92.

(b) The panel shall consist of ~~[nine]~~ twelve members, and shall include:

- (1) Two licensed teachers regularly engaged in teaching; provided that one teacher is employed at a start-up charter school, and one teacher is employed at a conversion charter school;
- (2) Two educational officers; provided that one educational officer is employed at a start-up charter school, and one educational officer is employed at a conversion charter school;
- (3) One member or former member of a charter school local school board;
- (4) The chair of the board of education or the chair’s designee;
- ~~[(5) The executive director or the executive director’s designee;~~
- ~~[(6)]~~ (5) A representative of Hawaiian culture-focused charter schools; [and]
- ~~[(7) A representative]~~ (6) Two representatives of the University of Hawaii[-] who are not affiliated with charter schools;
- (7) One member with a background in business or accounting who is not affiliated with charter schools;
- (8) One member with a background in the building trades or real estate who is not affiliated with charter schools; and
- (9) A representative from the Hawaii Association of Independent Schools.<sup>1</sup> provided that the initial appointments for representatives in paragraphs (7) to (10)<sup>1</sup> shall be made by September 1, 2007. From the effective date of this Act until such time that the panel has twelve members, five members of the panel shall constitute a quorum to conduct business and a concurrence of at least five members shall

be necessary to make any action of the panel valid; provided that, upon filling the twelve seats as required under this subsection, a majority of the panel shall constitute a quorum to conduct business, and the concurrence of a majority of all the members to which the panel is entitled shall be necessary to make any action of the panel valid.

(c) The board shall appoint the remaining members of the panel other than the chair of the board [~~and the executive director~~].

(d) Appointed panel members shall serve not more than three consecutive three-year terms, with each term beginning on July 1; provided that the initial terms of the appointed members that commence after June 30, 2006, shall be staggered as follows:

- (1) [~~Three~~] Four members to serve three-year terms;
- (2) [~~Two~~] Four members to serve two-year terms; and
- (3) [~~Two~~] Three members to serve a one-year term.”

2. By amending subsections (i) to (k) to read:

“(i) The powers and duties of the panel shall be to:

- (1) Appoint and evaluate the executive director and approve staff and salary levels for the charter school administrative office;
- [(4)] (2) Review, approve, or deny charter applications for new charter schools in accordance with sections 302B-5 [and 302B-6 and make recommendations to the board] for the issuance of new charters; provided that [if the board does not issue or deny the charter within sixty calendar days of the board’s receipt of the recommendations, the recommendations shall automatically become effective;] applicants that are denied a charter may appeal to the board for a final decision pursuant to section 302B-;
- [(2)] (3) Review, approve, or deny significant amendments to detailed implementation plans to maximize the school’s financial and academic success, long-term organizational viability, and accountability[and make recommendations to the board; provided that if the board does not approve or deny the amendments within sixty calendar days of receipt of the recommendations, the recommendations shall automatically become effective;]. Charter schools that are denied a significant amendment to their detailed implementation plan may appeal to the board for a final decision pursuant to section 302B-;
- [(3)] (4) [~~Recommend to the board~~] Adopt reporting requirements for charter schools;
- [(4)] (5) Review annual self-evaluation reports from charter schools and [make recommendations to the board;] take appropriate action;
- [(5)] (6) [~~As directed by the board, evaluate~~] Evaluate any aspect of a charter school that the [board] panel may have concerns with [and make recommendations to the board,] and take appropriate action, which may include probation or revocation; [provided that if the board does not take action on the recommendations within sixty calendar days, the recommendations shall automatically become effective;]
- [(6)] (7) Periodically [recommend to the board] adopt improvements in the [board’s] panel’s monitoring and oversight of charter schools; and
- [(7)] (8) Periodically [recommend to the board] adopt improvements in the office’s support of charter schools and management of the charter school system.

(j) In the case that the panel decides not to [~~recommend the issuance of~~] issue a new charter, or to [~~recommend~~] approve significant amendments to detailed

implementation plans, the board [shall] may adopt rules for an appeals process[.] pursuant to section 302B-~~\_\_\_\_\_~~.

(k) The [board] office shall provide for the staff support and expenses of the panel. [~~The board shall submit to the legislature annual appropriation requests to fund the operations of the panel.~~]

SECTION 8. Section 302B-4, Hawaii Revised Statutes, is amended to read as follows:

**“§302B-4 Limits on charter schools.** [~~Beginning July 2007, the board, with the recommendation of the~~] The panel[.] may authorize one new start-up charter school for each existing start-up charter school that has received a three-year or longer accreditation from the Western Association of Schools and Colleges or a comparable accreditation authority as determined by the panel, or for each start-up charter school whose charter is revoked. The total number of conversion charter schools authorized by the [board, with the recommendation of the] panel[.] shall not exceed twenty-five.”

SECTION 9. Section 302B-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The start-up charter school application process and schedule shall be determined by the [board,] panel, and shall provide for and include the following elements:

- (1) The submission of a letter of intent to operate a start-up charter school;
- (2) The timely transmittal of the application form and completion guidelines to the interim local school board;
- (3) The timely submission to the [board] panel of a completed application;
- (4) The timely review of the application by the panel for completeness, and notification of the interim local school board if the application is complete or, if the application is insufficient, a written statement of the elements of the application that require completion;
- (5) The timely resubmission of the application;
- (6) Upon receipt of a completed application, the convening of the panel by the panel chairperson to begin review of the application;
- (7) The timely notification of the applicant of any revisions the panel requests as necessary for a recommendation of approval [~~to the board~~];
- [(8) ~~The timely transmission of the panel's recommendation to the board for adjudication;~~
- (9) (8) Following the submission of an application, issuance of a charter or denial of the application by the [board] panel by majority vote; provided that if the [board] panel does not approve the application and issue a charter, provisions requiring the [board] panel to:
  - (A) Clearly identify in writing its reasons for not issuing the charter, which may be used as guidelines for an amended plan; and
  - (B) Allow the interim local school board to revise its plan in accordance with the [board's] panel's guidelines, and resubmit an amended plan within ten calendar days;
- [(10) (9) A provision for a final date on which a decision must be made, upon receipt of an amended plan; and
- [(11) (10) A provision that no start-up charter school may begin operation before obtaining [board] panel approval of its charter[; and

- (12) ~~A requirement that upon approval of the start-up charter school, the office shall submit to the board a proposed budget for funding of the start-up school for submittal to the governor and legislature.~~”

SECTION 10. Section 302B-6, Hawaii Revised Statutes, is amended to amend subsection (c) to read as follows:

“(c) The conversion charter school application process and schedule shall be determined by the [board,] panel, and shall provide for and include the following elements:

- (1) The submission of a letter of intent to convert to a charter school;
- (2) The timely transmittal of the application form and completion guidelines to the interim local school board;
- (3) The timely submission to the [board] panel of a completed application; provided that the application shall include certification and documentation that the application and the proposed detailed implementation plan was approved by a majority of the votes cast by existing administrative, support, teaching personnel, and parents of students at the proposed conversion charter school;
- (4) The timely review of the application by the panel for completeness, and notification of the interim local school board if the application is complete or, if the application is insufficient, a written statement of the elements of the application that require completion;
- (5) The timely resubmission of the application;
- (6) Upon receipt of a completed application, the convening of the panel by the panel chairperson to begin review of the application;
- (7) The timely notification of the applicant of any revisions the panel may request as necessary for a recommendation of approval [~~to the board~~];
- [~~(8)~~] ~~The timely transmission of the panel’s recommendation to the board for adjudication;~~
- [~~(9)~~] (8) Following the submission of an application, issuance of a charter or denial of the application by the [board] panel by majority vote; provided that if the [board] panel does not approve the application and issue a charter, provisions requiring the [board] panel to:
  - (A) Clearly identify in writing its reasons for not issuing the charter, which may be used as guidelines for an amended plan; and
  - (B) Allow the interim local school board to revise its plan in accordance with the [board’s] panel’s guidelines, and resubmit an amended plan within ten calendar days;
- [~~(10)~~] (9) A provision for a final date on which a decision must be made upon receipt of an amended plan; and
- [~~(11)~~] (10) A provision that no conversion charter school may begin operation before obtaining [board] panel approval of its charter; and
- (12) ~~A requirement that upon approval of the conversion charter school, the office shall submit to the board a proposed budget for funding of the start-up school for submittal to the governor and legislature.~~”

SECTION 11. Section 302B-8, Hawaii Revised Statutes, is amended by amending subsections (a) to (d) to read as follows:

“(a) There is established a charter school administrative office, which shall be attached to the department for administrative purposes only. The office shall be administered by an executive director, who shall be appointed without regard to chapters 76 and 89 by the [board] panel based upon the recommendations of an organization of charter schools operating within the State or from a list of nominees

submitted by the charter schools. The ~~[board may]~~ panel shall hire the executive director ~~[on a multi-year contract.], who may be contracted for a term of up to four years; shall offer the executive director a written contract; and may terminate the executive director's contract only for cause.~~ The executive director, with the approval of the panel, may hire necessary staff without regard to chapters 76 and 89 to assist in the administration of the office.

(b) The executive director, under the direction of the ~~[board]~~ panel and in consultation with the charter schools, shall be responsible for the internal organization, operation, and management of the charter school system, including:

- (1) Preparing and executing the budget for the charter schools, including submission of the budget request to the board, the governor, and the legislature;
- (2) Allocating annual appropriations to the charter schools and distribution of federal funds to charter schools;
- (3) Complying with applicable state laws related to the administration of the charter schools;
- (4) Preparing contracts between the charter schools and the department for centralized services to be provided by the department;
- (5) Preparing contracts between the charter schools and other state agencies for financial or personnel services to be provided by the agencies to the charter schools;
- (6) Providing independent analysis and recommendations on charter school issues;
- (7) Representing charter schools and the charter school system in communications with the board, the governor, and the legislature;
- (8) Providing advocacy, assistance, and support for the development, growth, progress, and success of charter schools and the charter school system;
- (9) Providing guidance and assistance to charter applicants and charter schools to enhance the completeness and accuracy of information for ~~[board]~~ panel review;
- (10) Assisting charter applicants and charter schools in coordinating their interactions with the ~~[board]~~ panel as needed;
- (11) Assisting the ~~[board]~~ panel to coordinate with charter schools in ~~[board]~~ panel investigations and evaluations of charter schools;
- (12) Serving as the conduit to disseminate communications from the panel, the board, and the department to all charter schools;
- (13) Determining charter school system needs and communicating ~~[such]~~ those needs [with] to the panel, the board, and the department;
- (14) Establishing a dispute resolution and mediation ~~[panel's]~~ process; and
- (15) Upon request by one or more charter schools, assisting in the negotiation of a collective bargaining agreement with the exclusive representative of its employees.

(c) The executive director shall be evaluated annually by the ~~[board.] panel.~~ The annual evaluation shall be conducted sufficiently in advance of the end of a term to provide the executive director the opportunity to respond to concerns and improve performance.

(d) The salary of the executive director and staff shall be set by the ~~[board]~~ panel based upon the recommendations of charter schools within the State; provided that the salaries and operational expenses of the office shall be paid from the annual charter school appropriation and shall not exceed two per cent of the total allocation in any fiscal year."

SECTION 12. Section 302B-12, Hawaii Revised Statutes, is amended by amending subsections (a) to (c) to read as follows:

“(a) Beginning with fiscal year 2006-2007, and each fiscal year thereafter, the office shall submit a request for general fund appropriations for each charter school based upon:

- (1) The actual and projected enrollment figures in the current school year for each charter school;
- (2) A per-pupil amount for each regular education and special education student, which shall be equivalent to the total per-pupil cost based upon average enrollment in all regular education cost categories, including comprehensive school support services but excluding special education services, and for all means of financing except federal funds, as reported in the most recently-approved executive budget recommendations for the department; provided that in preparing the budget the executive director shall include an analysis of the proposed budget in relationship to the most recently published department consolidated annual financial report; provided further that the legislature may make an adjustment to the per-pupil allocation for the purposes of this section; and
- (3) Those fringe benefit costs requested shall be included in the department of budget and finance’s annual budget request. No fringe benefit costs shall be charged directly to or deducted from the charter school per-pupil allocations unless they are already included in the funds distributed to the charter school.

The legislature shall make an appropriation based upon the budget request; provided that the legislature may make additional appropriations for fringe, workers’ compensation, and other employee benefits, facility costs, and other requested amounts.

The governor, pursuant to chapter 37, may impose restrictions or reductions on charter school appropriations similar to those imposed on other public schools.

(b) Charter schools shall be eligible for all federal financial support to the same extent as all other public schools. The department shall provide the office with all state-level federal grant proposals submitted by the department that include charter schools as potential recipients and timely reports on state-level federal grants received for which charter schools may apply[-] or are entitled to receive. Federal funds received by the department for charter schools shall be transferred to the office for distribution to charter schools in accordance with the federal requirements. If administrative services related to federal grants and subsidies are provided to the charter school by the department, the charter school shall reimburse the department for the actual costs of the administrative services in an amount that shall not exceed six and one-half per cent of the charter school’s federal grants and subsidies.

Any charter school shall be eligible to receive any supplemental federal grant or award for which any other public school may submit a proposal, or any supplemental federal grants limited to charter schools; provided that if department administrative services, including funds management, budgetary, fiscal accounting, or other related services, are provided with respect to these supplemental grants, the charter school shall reimburse the department for the actual costs of the administrative services in an amount that shall not exceed six and one-half per cent of the supplemental grant for which the services are used.

All additional funds generated by the local school boards, that are not from a supplemental grant, shall be held separate from allotted funds and may be expended at the discretion of the local school boards.

(c) To enable charter schools to access state funding prior to the start of each school year, foster their fiscal planning, and enhance their accountability, the office shall:

- (1) Provide fifty per cent of a charter school's per-pupil allocation based on the charter school's projected student enrollment no later than July 20 of each fiscal year; provided that the charter school shall ~~[submit]~~ have submitted to the office a projected student enrollment no later than May 15 of each year;
- (2) Provide an additional forty per cent of a charter school's per-pupil allocation no later than November 15 of each year; provided that the charter school shall ~~[submit]~~ have submitted to the office:
  - (A) Student enrollment as verified on October 15 of each year; provided that the student enrollment shall be verified on the last business day immediately prior to October 15 should that date fall on a weekend; and
  - (B) An accounting of the percentage of student enrollment that transferred from public schools established and maintained by the department; provided that these accountings shall also be submitted by the office to the legislature no later than twenty days prior to the start of each regular session; and
- (3) ~~[The]~~ Retain the remaining ten per cent of a charter school's per-pupil allocation ~~[of a charter school]~~ no later than January 1 of each year as a contingency balance to ensure fiscal accountability;

provided that the ~~[board]~~ panel may make adjustments in allocations based on noncompliance with ~~[office]~~ federal and state reporting requirements, the office's administrative procedures, and board-approved accountability requirements.'

SECTION 13. Section 302B-14, Hawaii Revised Statutes, is amended by amending subsections (a) to (g) to read as follows:

“(a) Every charter school shall conduct annual self-evaluations that shall be submitted to the ~~[board]~~ panel within sixty working days after the completion of the school year~~[-], or in accordance with reporting requirements adopted by the panel.~~ The self-evaluation process shall include but not be limited to:

- (1) The identification and adoption of benchmarks to measure and evaluate administrative and instructional programs;
- (2) The identification of any innovations or research that may assist other public schools;
- (3) The identification of any administrative and legal barriers to meeting the adopted benchmarks, and recommendations for improvements and modifications to address the barriers;
- (4) An evaluation of student achievement within the charter school;
- (5) A profile of the charter school's enrollment and the community it serves, including a breakdown of regular education and special education students; and
- (6) An evaluation of the school's organizational viability.

(b) The ~~[board]~~ panel shall conduct multi-year evaluations of charter schools that have been chartered for four or more years. ~~[The board shall adopt rules pursuant to chapter 91 for its evaluations.]~~

(c) The ~~[board]~~ panel may conduct special evaluations of charter schools at any time.

(d) The ~~[board]~~ panel may place a charter school on probationary status; provided that:

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- (1) The panel evaluates the charter school or reviews an evaluation of the charter school [~~and makes recommendations to the board~~];
- (2) The [~~board~~] panel and the office are involved in substantive discussions with the charter school regarding the areas of deficiencies;
- (3) The notice of probation is delivered to the charter school and specifies the deficiencies requiring correction, the probation period, and monitoring and reporting requirements;
- (4) For deficiencies related to student performance, a charter school shall be allowed two years to improve student performance; [~~and~~]
- (5) For deficiencies related to financial plans, a charter school shall be allowed one year to develop a sound financial plan[-]; and
- (6) For deficiencies related to organizational viability, a charter school may be allowed one year to improve administrative compliance.

The charter school shall remain on probationary status until the [~~board~~] panel votes either to [~~either~~] remove the charter school from probationary status or revoke its charter.

(e) If a charter school fails to resolve deficiencies by the end of the probation period, the [~~board~~] panel may revoke the charter; provided that the vote of two-thirds of all the members to which the [~~board~~] panel is entitled shall be required to revoke the charter.

(f) The [~~board~~] panel may place a charter school on probationary status or revoke the charter for serious student or employee health or safety deficiencies; provided that:

- (1) The charter school is given notice of specific health or safety deficiencies and is afforded an opportunity to present its case to the [~~board~~] panel;
- (2) The [~~board~~] panel chair appoints a task group [~~, the panel,~~] or the office, to visit the charter school and conduct meetings with its local school board and its school community to gather input;
- (3) Based on its findings, the task group shall recommend to the [~~board~~] panel to revoke the charter, place the charter school on probation, or continue the charter;
- (4) The vote of two-thirds of all the members to which the [~~board~~] panel is entitled shall be required to revoke the charter;
- (5) The best interest of the school's students guide all decisions; and
- (6) After a decision to revoke a charter, the charter school shall be allowed to remain open until a plan for an orderly shutdown or transfer of students and assets is developed and executed, or until the school year ends, whichever comes first.

(g) If there is an immediate concern for student or employee health or safety at a charter school, the [~~board,~~] panel, in consultation with the office, may adopt an interim restructuring plan that may include the appointment of an interim local school board, an interim local school board chairperson, or a principal to temporarily assume operations of the school; provided that if possible without further jeopardizing the health or safety of students and employees, the charter school's stakeholders and community are first given the opportunity to elect a new local school board which shall appoint a new interim principal."

SECTION 14. Notwithstanding the requirements of section 302B-3, Hawaii Revised Statutes, the terms of those members of the charter school review panel that are to expire on or before June 30, 2007, shall be extended until June 30, 2008.

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

SECTION 16. This Act shall take effect upon its approval; provided that the amendments made to section 89-6(g), Hawaii Revised Statutes, by section 3 of this Act shall not be repealed when section 89-6(g), Hawaii Revised Statutes, is repealed and reenacted pursuant to Act 245, Session Laws of Hawaii 2005.

(Approved June 1, 2007.)

#### Notes

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

## ACT 116

S.B. NO. 620

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Hawaii Preparatory Academy.

*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's general welfare.

SECTION 2. Pursuant to part VIII, 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 an amount not to exceed \$50,000,000, in one or more series, for the purpose of assisting Hawaii Preparatory Academy to finance or refinance the planning, construction, and improvement of its educational facilities in the state. The legislature finds that the planning, construction, and improvement of facilities of Hawaii Preparatory Academy constitute a project for purposes of part VIII, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a not-for-profit private elementary schools, secondary schools, colleges, and universities that serve the general public.

SECTION 3. The special purpose revenue bonds authorized by this Act shall be issued pursuant to part VIII, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities that serve the general public.

SECTION 4. The special purpose revenue bonds issued under this Act may be issued in one or more series for a single project, multiple projects, a single-project party, or multiple-project parties pursuant to the authority of this Act or the combined authority of this Act and any one or more other separate acts of the legislature pursuant to part VIII, chapter 39A, Hawaii Revised Statutes, and the department of budget and finance may combine into a single issue of special purpose revenue bonds, in one or more series, two or more proposed issues of special purpose revenue bonds to be issued pursuant to part VIII, chapter 39A, Hawaii Revised Statutes, separately authorized, in the total amount not to exceed the aggregate of the proposed separate issues of special purpose revenue bonds.

SECTION 5. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2012, to issue special purpose

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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 to refund 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 or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 4. 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 by this section.

SECTION 6. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2012.

SECTION 7. This Act shall take effect on July 1, 2007.

(Approved June 1, 2007.)

## ACT 117

H.B. NO. 429

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Sacred Hearts Academy.

*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 VIII, 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 \$10,000,000, in one or more series, to assist Sacred Hearts Academy, a Hawaii not-for-profit corporation, in financing the construction and improvement of its educational facilities in the state of Hawaii. The legislature finds and determines that the construction and improvement of such educational facilities constitute a project as defined in part VIII, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities that serve the general public.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part VIII, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities that serve the general public.

SECTION 4. The special purpose revenue bonds issued under this Act may be issued in one or more series for a single project, multiple projects, a single-project party, or multiple-project parties pursuant to the authority of this Act or the combined authority of this Act and any one or more other separate Acts of the legislature pursuant to part VIII, chapter 39A, Hawaii Revised Statutes, and the department of budget and finance may combine into a single issue of special purpose revenue bonds, in one or more series, two or more proposed issues of special purpose revenue bonds to be issued pursuant to part VIII, chapter 39A, Hawaii Revised Statutes, separately

authorized, in the total amount not to exceed the aggregate of the proposed separate issues of special purpose revenue bonds.

SECTION 5. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2012, to issue 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 to refund 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 or whether 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 by this section.

SECTION 6. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2012.

SECTION 7. This Act shall take effect on July 1, 2007.

(Approved June 1, 2007.)

## ACT 118

H.B. NO. 504

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Le Jardin Academy.

*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's general welfare.

SECTION 2. Pursuant to part VIII, 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 the total amount not to exceed \$25,000,000, in one or more series, for the purpose of assisting Le Jardin Academy in financing and refinancing the construction, improvement and equipping of its educational facilities in the State of Hawaii. Le Jardin Academy intends to construct a new administrative building along with new classrooms that will include science laboratories. These classrooms will be used by both middle and high school students. A gymnasium and an arts center will also be constructed that will benefit all students in pre-kindergarten through grade twelve. The legislature finds that the planning, acquisition, construction, improvement and equipping of such educational facilities constitute a project as defined in part VIII, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a not-for-profit private nonsectarian and sectarian elementary and secondary school that serves the general public.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part VIII, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities that serve the general public.

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SECTION 4. The special purpose revenue bonds issued under this Act may be issued in one or more series for a single project, multiple projects, a single-project party, or multiple-project parties pursuant to the authority of this Act or the combined authority of this Act and any one or more other separate acts of the legislature pursuant to part VIII, chapter 39A, Hawaii Revised Statutes, and the department of budget and finance may combine into a single issue of special purpose revenue bonds, in one or more series, two or more proposed issues of special purpose revenue bonds to be issued pursuant to part VIII, chapter 39A, Hawaii Revised Statutes, separately authorized, in the total amount not to exceed the aggregate of the proposed separate issues of special purpose revenue bonds.

SECTION 5. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2011, to issue 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 to refund 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 or whether 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 by this section.

SECTION 6. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2011.

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

(Approved June 1, 2007.)

## ACT 119

H.B. NO. 581

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Hanalani Schools.

*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 VIII, 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 \$10,000,000, in one or more series, for the purpose of assisting Hanalani Schools, for the purpose of financing and refinancing the planning, acquisition, construction, and improvement of its facilities. The legislature hereby finds and determines that the activities and facilities of Hanalani Schools constitute a project as defined in part VIII, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a not-for-profit private nonsectarian and sectarian elementary school, secondary school, college, or university serving the general public.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part VIII, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, or universities serving the general public.

SECTION 4. The special purpose revenue bonds issued under this Act may be issued in one or more series for a single project, multiple projects, a single-project party, or multiple-project parties pursuant to the authority of this Act or the combined authority of this Act and any one or more other separate Acts of the legislature pursuant to part VIII, chapter 39A, Hawaii Revised Statutes, and the department of budget and finance may combine into a single issue of special purpose revenue bonds, in one or more series, two or more proposed issues of special purpose revenue bonds to be issued pursuant to part VIII, chapter 39A, Hawaii Revised Statutes, separately authorized, in the total amount not to exceed the aggregate of the proposed separate issues of special purpose revenue bonds.

SECTION 5. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2012, to issue 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 to refund 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 or whether 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 by this section.

SECTION 6. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2012.

SECTION 7. This Act shall take effect on July 1, 2007.

(Approved June 1, 2007.)

## ACT 120

H.B. NO. 1220

A Bill for an Act Relating to Agricultural Marketing.

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

SECTION 1. Chapter 148, Hawaii Revised Statutes, is amended by adding a new section to part V to be appropriately designated and to read as follows:

**“§148- Seal of quality special fund.** (a) There is established in the state treasury the seal of quality special fund, into which shall be deposited:

- (1) All revenues from the operations of the seal of quality program established under section 148-61;
- (2) Fines collected under section 148-66; and
- (3) Any appropriations made by the legislature to the fund.

(b) Moneys in the special fund may be expended for all costs associated with the seal of quality program, including:

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- (1) Conducting trade shows, retail shows, conferences, seminars, and other promotional activities;
- (2) Expenses for designs, program labels, items and materials, displays, brochures, media advertisements, inspection, and review and investigative activities relating to application and enforcement of the program;
- (3) Printing, mailing, airfare and per diem, lei, decors, rental of facilities and audio visual equipment, display and booth fees, participation fees, general supplies; and
- (4) Any other expense necessary to administer the program.”

SECTION 2. There is appropriated out of the seal of quality special fund the sum of \$10,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the seal of quality program.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval; provided that section 2 shall take effect on July 1, 2007.

(Approved June 4, 2007.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 121

H.B. NO. 155

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

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

SECTION 1. Hawaii is home to two of the world’s premier astronomy observatories, Haleakala on Maui and Mauna Kea on Hawaii. Mauna Kea is considered the finest observing site in the world. One of the most critical needs for preserving the value of these sites is to reduce bright sources of light that penetrate the dark night sky. Recent nighttime images from the international space station revealed that some of the brightest sources of light on Maui and Hawaii are the airports and harbors on both islands. Astronomers on Mauna Kea are now detecting artificial light sources from urban areas that are diminishing the telescopes’ ability to do research.

The purpose of the Act is to require the department of transportation, to the extent that it is practical, to comply with county ordinances and standards relating to outside lighting for all new installations at airports, harbors, and highways; provided that the compliance with county ordinances and standards do not conflict with any safety regulation or federal law, regulation, or mandate.

SECTION 2. Chapter 262, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§262- **Outdoor lighting.** To the extent that it is practical and not in conflict with any safety regulation or federal law, regulation, or mandate, if any airport rule or standard relating to outdoor lighting on any ramp or apron area, roadway, or parking lot conflicts with any county ordinance or other rule regarding

outdoor lighting, the more stringent requirement or standard shall govern all new installations of outdoor lighting.”

SECTION 3. Chapter 264, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

“**§264- Highway lighting.** To the extent that it is practical and not in conflict with any safety regulation or federal law, regulation, or mandate, if any highway rule or standard relating to highway lighting conflicts with any county ordinance or other rule regarding highway lighting, the more stringent requirement or standard shall govern all new installations of highway lighting.”

SECTION 4. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“**§266- Outdoor lighting.** To the extent that it is practical and not in conflict with any safety regulation or federal law, regulation, or mandate, if any harbor rule or standard relating to outdoor lighting at any harbor facility conflicts with any county ordinance or other rule regarding outdoor lighting, the more stringent requirement or standard shall govern all new installations of outdoor lighting.”

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved June 4, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 122**

H.B. NO. 1210

A Bill for an Act Relating to Jurors and Prospective Jurors.

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

SECTION 1. Section 612-2, Hawaii Revised Statutes, is amended to read as follows:

“**§612-2 Prohibition of discrimination.** A citizen shall not be excluded from jury service in this State on account of race, color, religion, sex, national origin, economic status, or ~~on account of a~~ physical ~~handicap~~ disability, except as provided in section ~~[612-4(3)]~~ 612-4(b)(1).”

SECTION 2. Section 612-3, Hawaii Revised Statutes, is amended as follows:  
1. By adding three new definitions to be appropriately inserted and to read:

““Circuit” refers to a judicial circuit, as specified in section 603-1.

““Disability” means the state of having a physical or mental impairment that substantially limits one or more of a person’s major life activities, having a record of such an impairment, or being regarded as having such an impairment.

““Felony” means a crime as defined in section 701-107(2).”

2. By amending the definition of “clerk” to read:

““Clerk” and “clerk of the court” [include any deputy clerk.] means the chief court administrator for a circuit, any authorized deputy chief court administrator, and any other person designated by the chief court administrator or the court to perform the functions under this chapter.”

3. By deleting the definition of “physical handicap”.

~~[““Physical handicap” means a physical impairment which substantially limits one or more of a person’s major life activities.”]~~

SECTION 3. Section 612-4, Hawaii Revised Statutes, is amended to read as follows:

**“§612-4 Grounds of qualification and disqualification.** (a) A prospective juror is qualified to serve as a juror if the prospective juror:

- (1) Is a citizen of the United States and of the State~~[-];~~
- (2) Is at least eighteen years old~~[-and];~~
- (3) Is a resident of the circuit; and
- ~~[(2)]~~ (4) Is able to read, speak, and understand the English language.

(b) A prospective juror is disqualified to serve as a juror if the prospective juror:

- (1) Is incapable, by reason of the prospective juror’s ~~[physical or mental]~~ disability, of rendering satisfactory jury service; but a ~~[person]~~ prospective juror claiming this disqualification may be required to submit a physician’s certificate as to the disability, and the certifying physician is subject to inquiry by the court at its discretion;
- (2) Has been convicted of a felony in a state or federal court and not pardoned; or
- (3) Fails to meet the qualifications in subsection (a).”

SECTION 4. Section 612-7, Hawaii Revised Statutes, is amended to read as follows:

~~“[§612-7] Excused when, for cause.~~ A prospective juror shall not be excused by a court for slight or trivial cause, but only when it appears that jury duty would entail a serious personal hardship, or that for other good cause the prospective juror should be excused either temporarily or otherwise.”

SECTION 5. Section 612-8, Hawaii Revised Statutes, is<sup>1</sup> to read as follows:

**“§612-8 Pay of jurors; mileage fee; parking violations exemption.** (a) Each juror or prospective juror shall be paid \$30 for each day of actual attendance at court. In addition, each juror or prospective juror shall be paid 33 cents for each mile actually and necessarily traveled in going to and from court. A person who appears at the time for which that person is summoned to court for jury duty may be allowed the mileage fee although the person, upon that person’s request, is subsequently excused or exempted from jury service.

(b) In the discretion of the court, any juror who incurs expenses for transportation, board, and lodging as a result of the distance the juror resides from the location of the court, may be reimbursed for actual expenses.

(c) All jurors or prospective jurors shall be exempt from any prosecution, penalty, or fine as a result of a parking violation committed in connection with the juror or prospective juror appearing at court for jury duty; provided that the juror or prospective juror shall present any parking citation received during this time to the court clerk of the circuit court or district court or the jury pool clerk, as appropriate,

who shall verify that the juror or prospective juror was serving on jury duty or appearing in court in response to a summons for jury duty at the time the citation was received. The clerk of the circuit court or district court or the jury pool clerk, as appropriate, shall keep an attendance roll in which shall be entered each juror's or prospective juror's name, each date the juror or prospective juror was summoned and appeared for jury duty, and the date the juror or prospective juror was discharged from service. The supreme court shall adopt rules necessary to effect this section."

SECTION 6. Section 612-9, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~**§612-9**~~]]~~ **Certificate for jury pay.** At least once each month, the clerk shall certify the number of days each juror or prospective juror has attended court and the amount due to the juror ~~[- Each juror shall state on oath to the clerk the number of miles traveled for which the juror is entitled to mileage.]~~ or prospective juror."

SECTION 7. Section 612-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each year the clerk for each circuit shall compile a master list. The master list shall consist of all voter registration lists for the circuit, which shall be supplemented with ~~[names from]~~ other lists of persons ~~[resident therein]~~ residing in the circuit, such as lists of taxpayers and ~~[drivers' licenses. This includes names, addresses, and social security numbers taken from income tax returns and estimates notwithstanding section 235-116.]~~ licensed drivers. Notwithstanding any other law to the contrary, including section 235-116, the lists used to compile the master list shall contain available identifying information of the persons on the list, such as last name, first name, middle initial, date of birth, gender, address, and social security number. Each person's name shall appear only once on the master list."

SECTION 8. Section 612-13, Hawaii Revised Statutes, is amended to read as follows:

"**§612-13 Juror qualification form.** (a) The clerk shall prepare an alphabetical list of the names in the master jury wheel, which shall not be disclosed to any person other than pursuant to this chapter or specific order of the court. The clerk shall mail to every name on the list a juror qualification form accompanied by instructions to fill out and return the form by mail to the clerk within ten days after its receipt. The form shall be subject to approval by the court ~~[as to matters of form]~~ and shall elicit the name, address ~~[of resident]~~, and age of the prospective juror, other information pertinent to disqualification or exemption from jury service, and any other matters as may be ordered by the court. The form also shall contain the prospective juror's declaration that the prospective juror's responses are true to the best of the prospective juror's knowledge and the prospective juror's acknowledgment that a wilful misrepresentation of a material fact may be punished by a fine of not more than \$500 or imprisonment for not more than thirty days, or both. Notarization of the juror qualification form shall not be required. If the prospective juror is unable to fill out the form, another person may do it for the prospective juror and shall indicate that the person has done so and the reason therefor. In any case in which it appears that there is an omission, ambiguity, or error in a form completed by a prospective juror, the clerk may return the form with instructions to the prospective juror to make such additions or corrections as may be necessary and to return the form to the clerk within ten days after its receipt. Upon the failure or refusal of any

person duly receiving the juror qualification form to complete and return it as required~~[, or in case of an omission, ambiguity, or error in a returned form,]~~ or instructed, the court, after first summoning the person to appear before the clerk to complete or correct the form, may punish the person for contempt.

(b) At the time of the prospective juror's appearance for jury service, or at the time of any interview before the court or clerk, any prospective juror may be required or permitted to fill out another juror qualification form in the presence of the court or clerk, at which time the prospective juror may be questioned, but only with regard to the prospective juror's responses to questions contained on the form and grounds for the prospective juror's exemption, excuse, or disqualification. Any information thus acquired by the court or clerk shall be noted ~~[on the juror qualification form]~~.

(c) Any person who wilfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror is guilty of a petty misdemeanor.

(d) Juror qualification forms shall not be deemed a public record, nor shall they become part of the court record unless the court so orders and places the forms under the seal of the court; provided that ~~[a redacted form]~~ the contents of the completed juror qualification forms, redacted to exclude a juror's social security number, driver's license number, home and business telephone numbers, street address, and other personal information and identifiers, may be disclosed:

- (1) To the litigants ~~[pursuant to section 612-17(e)]~~; or
- (2) When permitted in accordance with section 612-23."

SECTION 9. Section 612-14, Hawaii Revised Statutes, is amended to read as follows:

**"§612-14 Qualified jury wheel.** (a) Upon return of the juror qualification forms, the clerk, after careful investigation in each case, shall select for prospective jury service all those persons whom the clerk believes are qualified and not exempt; provided that any person who is exempt may be selected if the person waives the person's exemption.

(b) The names of the persons so selected shall be placed in the qualified jury wheel, to be used in compiling lists of prospective jurors subject to service during the ensuing year; provided that the clerk, with the approval of the court, may excuse a prospective juror for any cause set forth under section 612-7, in which case the name of the excused person shall not be placed in the qualified jury wheel.

(c) The clerk may place in the qualified jury wheel for further service the name of any ~~[juror]~~ person who, in the previous jury year, wilfully or without reasonable excuse failed to appear as summoned."

SECTION 10. Section 612-15, Hawaii Revised Statutes, is amended to read as follows:

**"§612-15 Certified jury lists.** (a) Every year, the clerk of each circuit shall make and file, not later than January 5, one or more certified lists of the names and addresses of ~~[fifty citizens, or a greater]~~ such number of persons as the court may order, subject to serve as grand jurors during the ensuing year from and after January 15. Every year, the clerk of each circuit shall likewise make and file, not later than December 20, a separate certified list of the names and addresses of citizens subject to serve as trial jurors during the ensuing year, from and after January 1, the number for each circuit, which shall be as the clerk considers necessary. The certified lists of prospective grand jurors and trial jurors shall be compiled from names drawn at random from the qualified jury wheel, and shall be prepared in alphabetical se-

quence. Upon the order of the court, from time to time, additional lists of persons subject to serve as grand jurors shall be compiled and filed, and additional names shall be added to a grand or trial jury list; provided that all additions shall be made by drawing from the qualified jury wheel for the appropriate year. When more than one grand jury list has been compiled, the sequence in which the lists are to be used shall be designated by the clerk according to the sequence of drawing. The names on the certified lists shall be open to public inspection, after redaction of addresses and other personal information and identifiers, subject to orders of the court.

(b) In the second, third, and fifth circuits, any circuit judge, and in the first circuit, a majority of the circuit judges, at any time, for reasons appearing sufficient to the judge or them, may order the dissolution of any certified list of prospective grand or trial jurors and order the clerk to make and file a new list, which may include any of the persons so discharged, to serve for the remainder of the year. The new list shall be compiled in the manner prescribed by the court. Until the new list is filed, grand or trial jurors may be drawn from a list thereof compiled and filed by the judge or judges making the order or one or more of them designated by the remainder, which list shall expire not later than thirty days after the filing thereof unless the period is extended, except that trial jurors may sit beyond the end of the period prescribed in this subsection and after the filing of a new list by the clerk, for the trial of any case in which the selection of the jury has already commenced.”

SECTION 11. Section 612-16, Hawaii Revised Statutes, is amended to read as follows:

**“§612-16 Grand jury.** (a) The court shall order one or more grand juries to be impaneled at such times as the public interest requires; provided that there shall be an annual initial impaneling not later than January 15.

(b) For the impaneling of a grand jury, the prospective jurors on a certified list of grand jurors shall be summoned and the names of those who are present, and not disqualified, exempted, or excused, shall be placed in an appropriate container from which a drawing by lot shall be conducted in order to draw a sufficient number of names to constitute a grand jury. A sufficient number of additional names on a certified list, as determined by the court, shall be drawn so that alternate grand jurors may be designated to serve as grand jurors in case of any vacancy occurring on a grand jury. The drawing shall be made in open court in the presence of the judge, no earlier than one week after a publication of notice of the time and place of drawing in a newspaper of general circulation published within the circuit for which the grand jury is drawn; provided that if there is no such newspaper, then after at least one week’s posting of such notice in at least three conspicuous places in the circuit.

(c) A certificate listing the names of the grand jurors and alternate grand jurors, and stating the essential facts of the drawing, signed by the judge and attested by the clerk, shall be filed.

(d) The grand jury, being impaneled and sworn, shall be charged by the court. The alternate grand jurors shall also be sworn and charged by the court, but shall not be impaneled. In [doing so,] charging the grand jurors and alternate grand jurors, the court shall give them such information as it may deem proper as to their duties and as to the law pertaining to such cases as may come before them. The court may further charge the grand [jury] jurors and alternate grand jurors from time to time, as it may deem necessary.

(e) ~~For the courts of the first circuit of the State from January 1, 1989, to December 31, 1991, and for the courts of all other circuits of the State from January 1, 1990, to December 31, 1992, a grand jury shall serve for a period of six months after being impaneled; provided that a grand jury may:~~

- (1) ~~Sit beyond such period to complete any matter in which the grand jury was impaneled;~~
- (2) ~~Be discharged sooner by the court; and~~
- (3) ~~Sit in all other cases until another grand jury is impaneled and sworn.]~~

(e) Effective January 2, 1992, for the courts of the first circuit of the State of Hawaii, and effective January 2, 1993, for the courts of all other circuits of the State [subject to section 612-22], a grand jury shall serve for a period of one year after being impaneled, unless sooner discharged by the court[;

Any vacancy occurring on a grand jury may be filled by the court by drawing at random from names on the certified list of grand jurors.]; provided that a grand jury may sit beyond the one-year period to complete any matter for which the grand jury was impaneled.”

SECTION 12. Section 612-17, Hawaii Revised Statutes, is amended to read as follows:

~~“§612-17 Trial jury[, first circuit]. (a) [In the first circuit, and in any other circuit in which the court so orders, this] This~~ section shall be applicable to the drawing of a trial jury and service thereon.

~~[(b) Not later than January 1 of each year, the clerk shall draw at random from the names on the certified list of trial jurors such number of trial jurors as is deemed sufficient for the ensuing year. When directed by the court, additional jurors shall be drawn. The names and juror qualification forms for the prospective jurors shall be secured in envelopes. The envelopes shall remain secured and in the custody of the clerk.~~

~~(e)] (b) Whenever a judge requires the services of a trial jury for use in proceedings before the judge or any other judge of the circuit, the judge may order the required number of jurors from the clerk. [Upon receipt by the judge of the envelopes containing the juror qualification forms, they shall be made available to the litigants concerned; provided that the jurors’ social security number, driver’s license number and home and business telephone numbers are first redacted. Litigants and their attorneys shall not further divulge the forms or the contents of the forms except when questioning prospective jurors in conjunction with the juror selection process.] The clerk shall randomly select the names of prospective jurors from the certified list and shall compile and submit to the judge the selected names in alphabetical sequence, along with such other information as the judge may require.~~

~~[(d) Any number of jurors ordered by a judge may be required to attend and serve.] (c) For the impaneling of a trial jury, the persons on the list of randomly selected prospective trial jurors ordered by a judge shall be summoned to attend and serve. The names of those summoned and present, and not disqualified, excused or exempted, shall be placed in an appropriate container, from which there shall be drawn a sufficient number of names to constitute a trial jury. The drawing shall be by lot in open court under the supervision of the judge. [There is no requirement that all names ordered by a judge be exhausted before other names may be used in the drawing, and the names of jurors which have been transmitted to the judge may be mixed with each other in the container during the drawing.] If a jury cannot be chosen for the trial of a case from the names placed in the container before the drawing commenced, additional names may be placed in the container. For this purpose, additional names may be ordered and randomly selected from the certified list of prospective trial jurors, and the additional prospective jurors summoned. The judge may summon jurors from among bystanders on consent of all parties. All names initially ordered by the judge need not be exhausted before other names may be used in the drawing, and the names of additional prospective jurors summoned and present may be added to the container during the drawing.~~

~~[(e)]~~ (d) Prospective jurors in attendance, but not actually serving in a trial before the judge, shall be subject to such orders relative to further jury service as the judge deems appropriate, including service before other judges in the circuit.

~~[(f)]~~ (e) Each juror ordered by a judge shall serve for a period of one day, commencing from the first day the juror is required to appear for service; provided that any juror may be required to serve beyond the one-day period for the trial of any case in which the selection of the jury commenced within that period. Upon completion of service by all jurors ordered by the judge to serve, the jurors shall be returned to the clerk, who shall not transmit the jurors again to any judge until all other jurors have been exhausted and other jurors which served at a more remote time have been first transmitted for service.

~~[(g)]~~ (f) A judge may, having regard to the equitable distribution of jury service, excuse any juror after actual service in a trial.”

SECTION 13. Section 612-18, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) If the court so orders, prospective trial jurors shall be drawn[,] and summoned, and further proceedings had as provided in section 612-17.

(b) ~~[If no order is made under subsection (a) in a particular circuit, the judge (or judges, if there are more than one) of that circuit may order a system of jury selection from the certified list of trial jurors which is not contrary to the general purposes of this chapter.]~~ In no case shall the trial jurors be chosen other than by lot, nor shall the trial jury be selected from the prospective jurors other than by lot in open court. ~~[In selecting the trial jury there is no requirement that all the names ordered by a judge be exhausted before other names may be used in the drawing, and the names of jurors may be mixed with each other for the drawing.]~~”

SECTION 14. Section 612-19, Hawaii Revised Statutes, is amended to read as follows:

“**§612-19 Summoning of prospective jurors.** (a) When so ordered by the court, the clerk shall transmit to the chief of police or a bailiff the names of prospective jurors to be summoned. The chief of police or bailiff, either personally or through an authorized subordinate, shall summon the persons named to attend the court by giving personal notice to each of the time and place of required appearance as fixed by order of the court. The court may order the summoning of prospective jurors by any officer of the court, and the service of summons by any form of personal notice, including notice by telephone.

(b) A prospective juror who, wilfully or without reasonable excuse, fails to attend after receipt of a summons by the court may be arrested and punished for contempt.

(c) The clerk may place in the qualified jury wheel for further service in the ensuing jury year the name of any prospective juror who wilfully or without reasonable excuse failed to attend after receipt of a summons by the court.”

SECTION 15. Section 612-21, Hawaii Revised Statutes, is amended to read as follows:

“~~[(H)]~~**§612-21 Jurors disqualified, exempted, or excused.** Whenever a juror has been disqualified, exempted, or excused, that fact shall be noted ~~[on the juror's juror qualification form]~~, and the juror shall not be subject to service for the period of time commensurate with the nature and circumstances of the juror's disqualification, exemption, or excuse.”

ACT 122

SECTION 16. Section 612-22, Hawaii Revised Statutes, is amended to read as follows:

**“§612-22 Trial jurors subject to one year of service; one day or one trial requirement.** The persons whose names are placed on the certified lists of prospective trial jurors filed by the clerk shall be subject to service for one year from and after January 1 and until the filing of new certified lists; provided that trial jurors shall serve only one day or one trial during the year. Prospective jurors who are challenged at voir dire and excused, excused for cause, summoned but not called to a courtroom, or called to a courtroom but later excused shall return to the juror pool to await reassignment to another trial. ~~[Jurors]~~ Prospective jurors in the juror pool awaiting reassignment to another trial shall be discharged after it has been determined that their services will not be needed. ~~[Jurors]~~ Prospective jurors who are discharged from the juror pool shall be dismissed from service for the year; provided that prospective jurors who fail to appear as summoned may have their names placed in the qualified jury wheel for service in the ensuing jury year and where a request for deferment of service has been made and granted by the court, the period of time between the first date of summons to appear and the time that the prospective juror is next summoned for service may be tolled and may be applied to extend the eligibility of service if the prospective juror should not again be summoned or serve on an actual trial within the year. ~~[Jurors]~~ Prospective jurors who are accepted to serve on a jury shall complete the duration of the trial and shall be dismissed from service for the year.”

SECTION 17. Section 612-26, Hawaii Revised Statutes, is amended to read as follows:

**“§612-26 Use of electronic ~~[or electromechanical devices]~~ or other means for drawing grand and trial juries.** Selections of citizens who are subject to jury duty and drawings of jury lists, may be made by ~~[means of]~~ electronic ~~[or electromechanical devices commonly designated as data processing equipment such as punch cards, electronic tape, random access files, and other solid state devices when the same are available for their use and the court so orders.] data processing or any other method to ensure random selection of jurors and implement the purposes of this chapter.~~”

SECTION 18. Section 612-27, Hawaii Revised Statutes, is amended to read as follows:

**“~~[E]~~§612-27~~[I]~~ Rules.** The supreme court is authorized to adopt, amend, and repeal rules of court, not inconsistent with the policies and objectives set forth in this chapter, regulating all aspects of the selection and management of grand and trial jurors~~[- The clerk, with the approval of the supreme court, may adopt rules], and setting forth policies, procedures, and forms for the selection and management of grand and trial jurors in the jury pools, in courtrooms, and in other appropriate circumstances in furtherance of the objectives of this chapter.~~”

SECTION 19. This Act shall not apply to proceedings that commenced or were scheduled prior to its effective date, nor to the qualification, selection, and summoning of persons subject to jury service or serving as jurors for the 2007 calendar year. This Act shall apply to the qualification, selection, summoning, and service of persons for jury duty for proceedings commencing or scheduled for the 2008 jury service year.

SECTION 20. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 21. This Act shall take effect upon its approval.

(Approved June 4, 2007.)

**Note**

1. So in original.

**ACT 123**

H.B. NO. 751

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Act 190, Session Laws of Hawaii 2006, is amended by amending section 4 to read as follows:

“SECTION 4. There is appropriated from the unemployment insurance trust fund from moneys deposited pursuant to section 383-123(b) the sum of \$10,000,000 or so much thereof as may be necessary for fiscal year 2006-2007 for the purposes specified in this Act as follows:

(1) The sum of:

- (A) [~~\$5,070,557~~] \$5,004,720 shall be allocated to the Oahu workforce investment board, which shall work in collaboration with the city and county of Honolulu;
- (B) [~~\$1,528,331~~] \$1,508,487 shall be allocated to the Maui workforce investment board, which shall work in collaboration with the county of Maui;
- (C) [~~\$1,275,556~~] \$1,258,994 shall be allocated to the Kauai workforce investment board, which shall work in collaboration with the county of Kauai; and
- (D) [~~\$1,965,558~~]<sup>1</sup> \$1,900,554 shall be allocated to the Hawaii workforce investment board, which shall work in collaboration with the county of Hawaii,

to improve employer outreach and services, labor force pool expansion, capacity building, and to fund some shared costs for the operations of the one-stop career centers within each county; ~~and~~

(2) The sum of \$200,000 shall be allocated to the department of labor and industrial relations to be used by the workforce development council ~~[for the funding of positions to identify additional funds and resources]~~ to support state-wide activities under this ~~[act, with the goal of being self-sufficient.]~~ Act; and

(3) The sum of \$127,245 shall be allocated to the department of labor and industrial relations for administrative expenses to include but not be limited to the cost of providing oversight, monitoring, and reporting. In addition, each of the county workforce investment boards and the workforce development council may use a portion of the sums allocated to the workforce investment boards and workforce development council to further compensate the department of labor and industrial relations for administrative expenses that are not covered by the appropriation to the department of labor and industrial relations provided herein. The compensation for the administrative expenses by the

department of labor and industrial relations shall be negotiated between the department of labor and industrial relations and each of the county workforce investment boards and the workforce development council.

The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act; provided that each county workforce investment board shall be required to submit a workforce development plan that shall be approved by the workforce development council prior to the release of funds by the department of labor and industrial relations[-]; provided further that the appropriation made by this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided further that all moneys appropriated by this Act shall not lapse until June 30, 2009.”

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

SECTION 3. This Act shall take effect on June 29, 2007.

(Approved June 4, 2007.)

**Note**

- 1. So in original.

**ACT 124**

H.B. NO. 55

A Bill for an Act Relating to Youth Suicide Prevention.

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

SECTION 1. The legislature finds that more children and young adults die from suicide each year than from cancer, heart disease, AIDS, birth defects, stroke, and chronic lung disease combined. Nationally, over four thousand youths take their lives annually, making suicide the third largest cause of death of persons between the ages of ten and twenty-four.

In Hawaii, suicide is the second leading cause of death among persons who are fifteen to twenty-four years old. Rates of youth suicide have been on the rise in the last decade among both females and males and among all ethnic groups. In Hawaii, males are more likely than females to commit suicide, and native Hawaiian youths are the most likely ethnic group to attempt or commit suicide.

Research demonstrates that youth suicide is linked to underlying mental health problems that can be addressed through early intervention and prevention strategies. The legislature notes that such intervention and prevention strategies have been listed as a national health priority in dealing with rising rates of youth suicide. Furthermore, Congress passed federal legislation in 2004, and appropriated \$82,000,000 over the next three years, for statewide programs designed to help prevent youth suicide. Many states have already developed comprehensive statewide youth suicide early intervention and prevention strategies that seek to provide effective early intervention and prevention services.

Suicide is a serious public health tragedy affecting children and young adults in Hawaii. The legislature declares that preserving and protecting the lives of children and young adults is a priority for the State. The legislature further finds and declares that preventing youth suicide is necessary for the health, safety, and welfare of the residents of the State. Accordingly, the purpose of this Act is to authorize the establishment of a youth suicide early intervention and prevention program for Hawaii.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

- “§321- Youth suicide early intervention and prevention program.** (a) The department of health may establish and operate a statewide youth suicide early intervention and prevention program that focuses upon, but is not necessarily limited to persons between the ages of ten and twenty-four to:
- (1) Create public awareness for issues relating to youth suicide prevention;
  - (2) Build community networks concerning youth suicide prevention; and
  - (3) Carry out suicide prevention training programs for law enforcement personnel, health care providers, school and University of Hawaii employees, and other persons who have contact with individuals at risk of suicide.
- (b) The department of health may provide appropriate research, training, and technical assistance to carry out the purposes of this section, including:
- (1) Providing oversight of youth suicide early intervention and prevention strategies;
  - (2) Identifying and understanding causes and associated risk factors of youth suicide;
  - (3) Analyzing the efficacy of new and existing youth suicide early intervention techniques and technologies;
  - (4) Examining trends in youth suicidal behaviors and nonfatal suicide attempts;
  - (5) Evaluating and disseminating outcomes and best practices of mental and behavioral health services at institutions of higher education; and
  - (6) Other activities deemed appropriate by the director of health.
- (c) Research, training, and technical assistance resources may be provided, but shall not be limited to:
- (1) Political subdivisions of the state;
  - (2) Native Hawaiian health and community organizations;
  - (3) Institutions of higher education;
  - (4) The department of education;
  - (5) Public organizations;
  - (6) Private nonprofit organizations; and
  - (7) Health and social service organizations.
- (d) The department of health may develop and submit proposals for funding from federal agencies and private organizations to support the purposes of this section.
- (e) The department of health may adopt rules in accordance with chapter 91 to implement the purposes of this section.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 2007; provided that this Act shall be repealed on June 30, 2009.

(Approved June 4, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Pedestrians' Right of Way.

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

SECTION 1. Section 291C-72, Hawaii Revised Statutes, is amended to read as follows:

**“§291C-72 Pedestrians' right of way in crosswalks.** (a) The driver of a vehicle shall stop ~~[and yield the right of way, to]~~ for a pedestrian who is crossing the roadway within a crosswalk when the pedestrian is [upon] either:

- (1) Upon the half of the roadway upon which the vehicle is traveling[-]; or [when the pedestrian is approaching]
- (2) Approaching the vehicle so closely from the opposite half of the roadway as to be in danger[-],

and shall not proceed until the pedestrian has passed the vehicle and the driver can safely proceed.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(c) Subsection (a) shall not apply under the conditions stated in section 291C-73(b).

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass ~~[such]~~ the stopped vehicle.

(e) Every person who violates this section shall be subject to the following penalties:

- (1) For a first infraction, or any infraction not preceded within one year by a prior violation of this section, a fine of \$150;
- (2) For an infraction that occurs within one year of a prior violation of this section, a fine of \$300 and revocation of the person's driver's license and privilege to operate a vehicle for a period of ninety days; and
- (3) For an infraction that occurs within two years of two prior violations of this section, and for the fourth and each additional infraction of this section, regardless of when committed, a fine of \$1,000, and revocation of the person's driver's license and privilege to operate a vehicle for a period of one hundred eighty days.”

SECTION 2. Section 291C-73, Hawaii Revised Statutes, is amended to read as follows:

**“[§291C-73] Crossing at other than crosswalks.** (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diago-

nally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to [such] the crossing movements.

(e) Every person who violates this section shall be fined \$100.”

SECTION 3. Section 291C-161, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Every person convicted [~~of violating~~] under or found in violation of section 291C-12, 291C-12.5, 291C-12.6, 291C-72, 291C-73, 291C-95, or 291C-105 shall be sentenced or fined in accordance with those sections.”

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 and stricken. New statutory material is underscored.

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

(Approved June 4, 2007.)

## ACT 126

S.B. NO. 1372

A Bill for an Act Relating to the Management of Financing Agreements.

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

SECTION 1. Chapter 37D, Hawaii Revised Statutes, is amended to read as follows:

### “CHAPTER 37D MANAGEMENT OF FINANCING AGREEMENTS

**§37D-1 Definitions.** Unless the context requires otherwise, as used in this chapter:

“Agency” [~~or “participating agency”~~] means the judiciary, any executive department, [~~any~~] independent commission, [~~any~~] board, [~~any~~] authority, [~~any~~] bureau, [~~any~~] office, [~~any~~] other establishment of the State (except the legislature and its agencies), or [~~any~~] public corporation that is supported in whole or in part by state funds, or any agent thereof, authorized by law to expend available moneys; provided that the Hawaii health systems corporation shall not be governed by this chapter for any financing agreement unless it elects to do so.

“Attorney general” means the attorney general of the State or any duly designated deputy attorney general.

“Available moneys” means moneys appropriated or otherwise made available, from time to time, by the legislature to pay amounts due under a financing agreement for the fiscal period in which the payments are due, together with any unexpended proceeds of the financing agreement, and any reserves or other amounts that have been deposited in trust to pay amounts due under the financing agreement. The legislature shall not be obligated to appropriate or otherwise make moneys available.

“Certificate of participation” means any certificate evidencing a participation right or a proportionate interest in any financing agreement or the right to receive proportionate payments from ~~[the State or]~~ an agency due under any financing agreement.

“Credit enhancement agreement” means any agreement or contractual relationship between the State, the department, or, with the approval of the director, any agency, and any bank, trust company, insurance company, surety bonding company, pension fund, or other financial institution providing additional credit on or security for a financing agreement or certificates of participation authorized by this chapter.

“Department” means the department of budget and finance of the State.

“Director” means the director of finance of the State or any duly designated deputy director of finance.

“Financial institution” means any organization authorized to do business under state or federal laws relating to financial institutions, including~~[,]~~ without limitation~~[,]~~ banks, savings banks, savings and loan companies or associations, financial services loan companies, and credit unions.

“Financing agreement” means any lease purchase agreement, installment sale agreement, loan agreement, line of credit, or other agreement of the department or, with the approval of the director, and any agency, to finance the improvement, use, or acquisition of real or personal property that is or will be owned or operated by one or more agencies of the State, the department, or any ~~[participating]~~ agency, or to refinance previously executed financing agreements including certificates of participation relating thereto.

“Line of credit” means an account at a financial institution under which the financial institution agrees to lend money to the department or to an agency, with the approval of the director and the agency, from time to time to finance one or more projects that are authorized by this chapter.

“Personal property” means tangible personal property, software, and fixtures.

“Project” means the real and personal property to be acquired or improved by ~~[a participating agency]~~ the department or an agency with the proceeds of a financing agreement of the department or the agency, respectively, or provided to the ~~[participating]~~ agency by the department.

“Property rights” means, with respect to personal property, the rights of a secured party under chapter 490, and, with respect to real property, the rights of a trustee or lender under a lease authorized by section 37D-3(4).

“Software” includes computer software, training, and maintenance contracts related to the operation of computer equipment.

**§37D-2 Financing agreements.** (a) There is hereby established and authorized the financing agreement program of the State. Any agency desiring to acquire or improve projects through the financing agreement program established and authorized by this chapter shall submit a written request to the department providing ~~[such]~~ any information ~~[as]~~ that the department shall require. Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation, only with the approval by the attorney general as to form and legality and upon the written request of one or more ~~[participating]~~ agencies may the department enter into a financing agreement in accordance with this chapter, and only with the approval by the attorney general as to form and legality, and by the director as to fiscal responsibility, and upon the written request of an agency, the agency may enter into a financing agreement in accordance with this chapter, except that the board of regents of the University of Hawaii may enter into a financing agreement in accordance with this chapter without the approval of the director and of the attorney general as to form and legality if the principal amount of the financing agreement

does not exceed \$3,000,000. A financing agreement may be entered into by the department on behalf of one or more ~~[participating]~~ agencies, or by an agency, at any time (before or after commencement or completion of any improvements or acquisitions to be financed) and shall be upon terms and conditions the department finds to be advantageous. In each case of a written request by the judiciary to participate in the financing agreement program, the department shall implement the request; provided that the related financing agreement shall be upon terms and conditions the department finds to be advantageous. Any financing agreement entered into by the department without the approval, or by an agency without the approvals required by this section shall be void and of no effect. A single financing agreement entered into by the department may finance a single item or multiple items of property to be used by multiple agencies or may finance a single item or multiple items of property to be used by a single agency. ~~[The]~~ If the financing agreement is by the department, the department shall bill any ~~[participating]~~ agency that benefits from property acquired with the proceeds of a financing agreement for ~~[such participating]~~ the agency's pro rata share of:

- (1) The department's costs of administration of the financing agreement program; and
- (2) The financing costs, including the principal and interest components of the financing agreement and insurance premiums[;],

on a monthly or other periodic basis, and may deposit payments received in connection with the billings with a trustee as security for [a] the financing agreement. Any ~~[participating]~~ agency receiving such a bill shall be authorized and shall pay the amounts billed from ~~[the]~~ available moneys.

If a financing agreement is by an agency, the agency shall deposit on a monthly or other periodic basis with the department, payments from available moneys with respect to the agency's financing costs, including the principal and interest components of the financing agreement and insurance premiums, which payments the department may deposit with a trustee as security for the financing agreement. The department may bill an agency for the department's costs of administering the agency's payments and the agency receiving such a bill shall be authorized to and shall pay the amounts billed from available moneys.

(b) Financing agreements shall be subject to the following limitations:

- (1) Amounts payable by ~~[a participating]~~ an agency to or upon the direction of the department in respect to a project and by the department or an agency under a financing agreement shall be limited to available moneys. In no circumstance shall the department or an agency be obligated to pay amounts due under a financing agreement from any source other than available moneys. If, by reason of insufficient available moneys or other reason, amounts due under a financing agreement are not paid when due, the lender may exercise any property right that the department or the agency has granted to it in the financing agreement, against the property that was purchased with the proceeds of the financing agreement, and apply the amounts so received toward payments scheduled to be made by the department or the agency under the financing agreement;
- (2) No property rights may be granted in property unless the property is being acquired, is to be substantially improved, is to be refinanced with the proceeds of a financing agreement, or is land on which the property is located;
- (3) Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation and as otherwise provided in this section with respect to the University of Hawaii, and except as provided in chapter 323F as to the Hawaii health systems corporation, an agency

shall not have the power to enter into a financing agreement, except ~~[through the department]~~ as authorized by this chapter, and nothing in this chapter shall be construed to authorize the sale, lease, or other disposition of property owned by an agency;

- (4) Except as otherwise provided in this section with respect to the University of Hawaii, the sale, assignment, or other disposition of any financing agreements, including certificates of participation relating thereto, shall require the approval of the director; and
- (5) The department or the agency proposing to enter into a financing agreement shall not be subject to chapter 103D and any and all other requirements of law for competitive bidding for financing agreements.

**§37D-3 Related agreements.** With the approval of the attorney general as to form and legality, the department may[:], and with the approval of the attorney general as to form and legality and of the director as to fiscal responsibility, an agency may:

- (1) Enter into agreements with trustees, within or without the State, to hold financing agreement proceeds, payments, and reserves as security for lenders to accept assignments of rights in the financing agreement from, and to enforce ~~[such]~~ the rights of, the lessor or other party thereto, and to issue certificates of participation for the right to receive payments due from the department or agency under a financing agreement. A financing agreement by an agency shall provide that all payments due from the agency under the financing agreement shall be deposited to or on the order of the department, or shall be for payment to or at the order of the lender in accordance with the financing agreement. The sale of certificates of participation shall be, at the option of the director, by negotiation or by competitive sale, in accordance with the procedures set out by section 39-55. The interest component of the certificates of participation shall be at ~~[such]~~ the rate or rates payable at ~~[such]~~ the time or times as the financing agreement may provide. The certificates of participation may be in one or more series; may bear ~~[such]~~ the date or dates; may mature at ~~[such]~~ the time or times not exceeding the lesser of:
  - (A) The weighted average economic life of the related project or projects; or
  - (B) Thirty years from their date;
 may be payable in ~~[such]~~ the medium of payment at ~~[such]~~ the place or places within or without the State; may carry registration privileges; may be subject to ~~[such]~~ terms of redemption, to tenders for purchase or to purchase prior to their stated maturity at the option of the ~~[State]~~ department or the agency, or the holder, or both; and may contain ~~[such]~~ terms, covenants, and conditions; and may be in ~~[such]~~ the form, either coupon or registered, as the financing agreement may provide. Amounts held by a trustee shall be invested by the trustee at the direction of the department or the agency in ~~[such]~~ investments as are permitted by state law and as shall be specified in the agreement with the trustee. Interest earned on any investment held by a trustee as security for a financing agreement may, at the option of the department~~[:]~~ or the agency, be credited to the accounts held by the trustee and applied in payment of sums due under ~~[such]~~ the financing agreement;
- (2) Enter into credit enhancement agreements for financing agreements or certificates of participation; provided that the credit enhancement

- agreements shall be payable solely from available moneys and amounts received from the exercise of property rights granted under [such] the financing agreements;
- (3) Use financing agreements to finance the costs of acquiring or refinancing property, plus the costs of reserves and credit enhancements and costs associated with obtaining the financing;
  - (4) Grant leases of real property subject to section 37D-2(b)(2). The leases may be for a term that ends on the date on which all amounts due under a financing agreement have been paid or provision for payment has been made or ten years after the last scheduled payment under a financing agreement, whichever is later. The leases may grant the lessor the right to evict the department or the [participating] agency, as the case may be, and exclude it from possession of the real property for the term of the lease, if the department or the [participating] agency, as the case may be, fails to appropriate or pay when due the amounts scheduled to be paid under a financing agreement or otherwise defaults under a financing agreement. Upon failure to pay or default, the lessor may sublease the land to third parties and apply any rentals toward payments scheduled to be made under a financing agreement;
  - (5) Grant security interests in personal property subject to section 37D-2(b)(2). The security interests shall attach and be perfected on the date the department or the [participating] agency, as the case may be, takes possession of the personal property, or the date the [lender] secured party advances money under a financing agreement, whichever is later. A security interest authorized by this section shall have, except as otherwise provided by law, priority over all other liens and claims. Upon failure to pay or default, the secured party shall have the rights and remedies available to a secured party under chapter 490 or a first, perfected security interest in goods and fixtures. No later than ten days after a security interest authorized by this section attaches, the department or the agency, as the case may be, shall cause a financing statement for the security interest to be filed with the bureau of conveyances in the same manner as financing statements are filed for goods;
  - (6) Pledge any amounts that are deposited with a trustee in accordance with a financing agreement. The pledge shall be valid and binding from the time it is made, the amounts so pledged shall immediately be subject to the lien of the pledge without filing, physical delivery, or other act, and the lien of the pledge shall be superior to all other claims and liens of any kind whatsoever;
  - (7) Purchase fire and extended coverage or other casualty insurance, or liability, title, rental interruption, or other insurance for property that is acquired or refinanced with proceeds of a financing agreement, assign the proceeds thereof to a lender or trustee to the extent of its interest, and covenant to maintain [such] the insurance while the financing agreement is unpaid, so long as available funds are sufficient to purchase [such] the insurance; and
  - (8) In connection with any financing agreement by which the department, on behalf of an agency, leases or purchases property from another party, notwithstanding and without regard to chapter 171 or any other law, the department or the agency may lease or sell, on [such] any terms as the department or the agency shall determine, to that party the site or property to be improved or otherwise to be leased or sold back to the department~~[-]~~ or the agency.

**§37D-4 Inclusion of budget request.** For each fiscal period, there shall be included with respect to each [participating] agency in the executive budget requests or, in the case of the judiciary, the judiciary budget request, to the legislature, amounts sufficient to permit the payment of all amounts that will be due on unpaid financing agreements during that fiscal period, including any expenses and replenishment of any reserve funds up to the balances required by the respective financing agreements. Amounts so included in the judiciary budget request and so applied to the payment of [sueh] any amounts due with respect to a judiciary project shall be deemed to be at all times for purposes of the judiciary budget act moneys of the judiciary, and not moneys of the department or any other executive department.

**§37D-5 Financing agreements not a general obligation of State.** Financing agreements shall:

- (1) Not be obligations for which the full faith and credit of the State, the department, or any [participating] agency are pledged; and
- (2) Have no claim or lien on any revenues or other moneys of the State, the department, or any [participating] agency except moneys appropriated or otherwise held in trust for [sueh] that purpose.

Financing agreements entered into under this chapter shall not constitute “bonds” within the meaning of section 12 of article VII of the Constitution of the State. No holder or holders of any financing agreement entered into under this chapter shall have the right to compel any exercise of taxing power of the State, the department, or any [participating] agency to pay [sueh] the financing agreements or the interest thereon and no moneys other than amounts appropriated or otherwise held in trust for [sueh] that purpose shall be required to be applied to the payment thereof. Each financing agreement issued under this chapter shall recite in substance that [sueh] the agreement, including the interest component thereof, shall not be an obligation for which the full faith and credit of the State, the department, or any [participating] agency are pledged, and that [sueh] the financing agreement shall have no claim or lien on any revenues or other moneys of the State, the department, or any [participating] agency except moneys appropriated or otherwise held in trust for [sueh] that purpose.

**§37D-6 Federal tax-exempt status; preference; protection.** (a) To the extent practicable, financing agreements issued pursuant to this chapter shall be issued to comply with requirements imposed by applicable federal law providing that the interest on financing agreements shall be excluded from gross income for federal income tax purposes, except as certain minimum taxes or environmental taxes may apply. The director and, with the approval of the director, the head of an agency may:

- (1) Enter into agreements;
- (2) Establish funds or accounts;
- (3) Make rebate payments to the federal government; and
- (4) Take any action required to comply with applicable federal tax law.

Nothing in this chapter shall prohibit the issuance of financing agreements, the interest on which may be included in gross income for federal income tax purposes.

(b) To ensure that interest on a financing agreement issued pursuant to this chapter that is excluded from gross income for federal income tax purposes, except as provided in subsection (a), on the date of issuance shall continue to be excluded, no state officer or employee shall authorize or allow any change, amendment, or modification to a financing agreement [which] that would affect the exclusion of interest on [sueh] the financing agreement from gross income for federal income tax purposes unless the change, amendment, or modification shall have received the

prior approval of the director. Failure to receive the approval of the director shall render any change, amendment, or modification void.

**§37D-7 Financing agreements legal investments.** All public officers and agencies, [aH] political subdivisions, [aH] insurance companies and associations, [aH] banks, savings banks, and savings institutions, including building or savings and loan associations, [aH] credit unions, [aH] trust companies, [aH] personal representatives, guardians, trustees, and [aH] other persons and fiduciaries in the State who are regulated by law as to the character of their investment, may legally invest moneys within their control and available for investment in financing agreements of the department[-] or any agency. The purpose of this section is to authorize any person, firm, corporation, association, political subdivision, body, or officer, public or private, to use any funds or moneys owned or controlled by them, including[;] without prejudice to the generality of the foregoing[;] sinking, insurance, investment, retirement, compensation, pension and trust funds, and moneys held on deposit, for the purchase of any financing agreements of the department[-] or any agency.

**§37D-8 Exemption from taxation.** All real and personal property owned or operated by the State, the department, or any [participating] agency, and any interests created in or transfer or recording of the property or any interest in the property, and payments made under the financing agreements to which the property is subject shall be exempt from all state, county, and municipal taxation, and fees and charges of every kind. Financing agreements issued pursuant to this chapter and the income therefrom, including[;] without limitation[;] the interest component of any lease payments, shall be exempt from all taxation by the State or any county or other political subdivision thereof, except inheritance, transfer, and estate taxes.

**§37D-9 Line of credit.** The department or, with the approval of the director, an agency may contract with a financial institution for one or more lines of credit in [sueh] amounts and for [sueh] periods as the legislature shall from time to time determine. The department, an agency, or the department[;] on behalf of a requesting agency, may borrow under a line of credit and use the amount or amounts borrowed to pay the cost of the improvements, use, or acquisition of real or personal property comprising a project. Upon the execution and delivery of a financing agreement to refinance the amount or amounts borrowed under [sueh] the line of credit, the department or the agency that is party to the financing agreement shall apply the proceeds thereof to the repayment of [sueh] any amount or amounts.

**§37D-10 Litigation; jurisdiction; appeal.** The director may petition the circuit court of the first circuit for an opinion as to the validity of any financing or related agreement entered into pursuant to this chapter. The petition shall constitute a civil proceeding for purposes of section 603-21.5(a)(3), and the circuit court of the first circuit shall have exclusive and original jurisdiction to receive and determine the question presented in the petition, irrespective of an actual controversy or dispute regarding the agreement or its validity. Any party aggrieved by the decision of the circuit court may appeal in accordance with part I of chapter 641 and the appeal shall be given priority.”

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

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

(Approved June 4, 2007.)

A Bill for an Act Relating to Aloha Tower Development Corporation.

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

SECTION 1. To meet the economic needs of the state, the harbors division of the department of transportation must provide suitable harbor facilities, which in turn ensures the efficient and timely delivery and shipment of goods imported into the state. Hawaii's aging commercial harbor system has not kept pace with our growing economy, and it is now critical to upgrade existing port facilities and develop harbor improvements in an expedited manner. Under its statutory mandate, the harbors division's focus is on essential daily management and operations of the commercial harbor system rather than development of new expansion opportunities. To expeditiously develop critically needed harbor infrastructure improvements and curtail statewide economic hardships that will occur if the harbors reach maximum cargo handling capacity by the year 2011 as currently projected, the harbors division desires to partner with Aloha Tower development corporation, an entity with a development-oriented mission, statutory powers, and expertise in the development of state-owned properties.

The harbors division is additionally stymied by the lack of funding necessary to develop costly wharfs and cargo handling terminals and its inability to consider development-oriented financing options such as public or private partnerships under its traditional structure, but the Aloha Tower development corporation is empowered to do such things. A partnership with the Aloha Tower development corporation, which has jurisdiction over a portion of Honolulu harbor, can also assist the harbors division by providing financial support from its limited commercial development along the downtown urban waterfront. Revenues generated from commercial development are proposed to be directed towards the funding of commercial harbor system infrastructure improvements.

The purpose of this Act is to establish a formal partnership between the Aloha Tower development corporation and the department of transportation harbors division for the development of Honolulu harbor infrastructure improvement projects.

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

**“§206J- Partnership with department of transportation for Honolulu harbor.** (a) Consistent with its general powers under this chapter, the development corporation may undertake projects for Honolulu harbor and its adjacent lands, which are under the jurisdiction of the department of transportation. Notwithstanding any provision in section 206J-17 to the contrary, payments to the development corporation for its administrative and operational expenses shall be made by the department of transportation and deposited into the Aloha Tower fund in a sub-account designated for the particular development project.

(b) All appropriations for the development of Honolulu harbor by the development corporation shall be received and administered by the department of transportation. The department of transportation shall retain fiscal management and oversight of all project cost expenditures, budget, and contract approvals.

(c) Subject to existing contractual and statutory commitments to the department of transportation for any losses in revenue under this chapter, the development corporation may apply any revenues derived from commercial development projects

in the Aloha Tower project area to defray the cost of harbor infrastructure improvements incurred within the state.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

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

(Approved June 4, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 128**

H.B. NO. 506

A Bill for an Act Relating to Ethanol.

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

SECTION 1. Section 235-110.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each year during the credit period, there shall be allowed to each taxpayer subject to the taxes imposed by this chapter, an ethanol facility tax credit that shall be applied to the taxpayer’s net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

For each qualified ethanol production facility, the annual dollar amount of the ethanol facility tax credit during the eight-year period shall be equal to thirty per cent of its nameplate capacity if the nameplate capacity is greater than five hundred thousand but less than fifteen million gallons. A taxpayer may claim this credit for each qualifying ethanol facility; provided that:

- (1) The claim for this credit by any taxpayer of a qualifying ethanol production facility shall not exceed one hundred per cent of the total of all investments made by the taxpayer in the qualifying ethanol production facility during the credit period;
- (2) The qualifying ethanol production facility operated at a level of production of at least seventy-five per cent of its nameplate capacity on an annualized basis;
- (3) The qualifying ethanol production facility is in production on or before January 1, [2012;] 2017; and
- (4) No taxpayer that claims the credit under this section shall claim any other tax credit under this chapter for the same taxable year.”

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

SECTION 3. This Act shall take effect on July 1, 2007.

(Approved June 4, 2007.)

A Bill for an Act Relating to Hunting Tourism.

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

SECTION 1. Section 183D-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) The hunting license fee shall be:
- (1) \$10 for any person who has resided in the State for one year or longer, or who is a member of the armed forces of the United States on active duty and the spouse and children thereof, or who elects to forgo the exemption provided in paragraph [~~(3)~~]; (4);
  - (2) \$95 for all other persons; [~~and~~]
  - (3) \$50 for a three-day period and \$95 for a seven-day period for hunting on a private and commercial shooting preserve for persons who do not meet the requirements of paragraph (1) or (4); and
  - [~~(3)~~] (4) Free to all Hawaii residents sixty-five years of age or older and to all persons with Hansen’s disease who are residents of Kalaupapa, Molokai.”

SECTION 2. Section 183D-23, Hawaii Revised Statutes, is amended to read as follows:

“**§183D-23 Licenses expire when.** All licenses shall expire on June 30 next following the date of issuance[-], except for licenses obtained pursuant to section 183D-22(b)(3).”

SECTION 3. Section 183D-28, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A person who meets the minimum age requirements adopted pursuant to subsection (c) shall be exempt from the requirements of subsection (a) if the person:

- (1) Was born before January 1, 1972, and at one time possessed a hunting license issued by the State; provided that the person shows satisfactory proof to the department that the person had possessed the hunting license; [~~or~~]
- (2) Has successfully completed a course or program of hunter education and safety [~~which~~] that is approved by the International Hunter Education Association and meets the requirements of chapter 12 of the United States Fish and Wildlife Service Federal Aid Manual, as revised; provided that the person shows satisfactory proof in the form of a certificate, wallet card, or other document issued by a state, province, or country evidencing successful completion of the course or program[-]; or
- (3) Obtains a three-day or a seven-day hunting license pursuant to section 183D-22(b)(3) to hunt on a private and commercial shooting preserve, accompanied by a hunting guide licensed pursuant to section 183D-25.5; provided that:
  - (A) All hunting shall be conducted on a licensed private and commercial shooting preserve and under the direction of a hunting guide who has successfully completed a Hawaii hunter education certification course and meets the requirements of section 183D-25.5;

- (B) Prior to licensing, a hunter safety class and field training session shall be provided to the licensee that includes hunter safety and hunting equipment use and safe discharge;
- (C) While hunting under these provisions, a hunting guide shall guide not more than two unaccompanied clients at any time while hunting;
- (D) All hunting guides and clients shall wear a hunter safety blaze-orange outer garment while hunting;
- (E) The private and commercial shooting preserve operator, hunting guides, and clients agree to be subject to inspection while engaged in hunting activities by department representatives or authorized law enforcement officers; and
- (F) The private and commercial shooting preserve owner and operator assume responsibility and liability for public and hunter safety while operating under these provisions and agree to report any injuries to the department.

Upon application and satisfaction of the requirements of paragraph (1), the department shall issue a written exemption [~~which~~] that shall be valid for the life of the person. The department shall develop and maintain a list of approved hunter education courses described in paragraph (2) for reference by the public and license agents."

SECTION 4. Section 183D-34, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The fee for [~~the license shall be \$1;~~] private and commercial shooting preserves and farmer's licenses shall be set by the department; provided that the department may authorize any governmental agency to breed and sell [~~such~~] game birds, and may authorize any person to possess lawfully obtained game birds. The fees collected under this subsection shall be deposited into the wildlife revolving fund under section 183D-10.5."

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

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved June 5, 2007.)

## ACT 130

H.B. NO. 791

A Bill for an Act Relating to Gasoline.

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

SECTION 1. The legislature finds that diversification of fuel supplies and a transition towards renewable energy sources is in the long-term interest nationally and for the people of Hawaii. Gasoline containing ten per cent ethanol has been an approved fuel for use in automotive spark ignition engines since 1978. Currently, about fifty per cent of the gasoline in the United States contains ethanol. In some areas of the United States, all of the available motor gasoline contains ethanol. Some of the affected states do not impose labeling requirements for fuels containing ten per cent ethanol.

Hawaii's existing ethanol content statute and implementation rules provide for significant flexibility in allowing the private sector to supply approximately

seventy million gallons of non-ethanol gasoline per year for old, incompatible, or non-standard equipment that is not listed or tested by Underwriters Laboratory. Nevertheless, there are areas of the State in which the private sector has not taken initiative to address the needs of niche markets, including certain boats, small gasoline-driven tools, and experimental and light-sport aircraft that are in need of non-ethanol gasoline.

In 1987, the Coast Guard issued a directive to recreational boat builders to install fuel hoses compatible with gasoline containing aromatics and alcohols. However, some boats have fiberglass fuel tanks that are not ethanol compatible and will cause fiberglass softening or tank leaks. There have been reports of boats with older fiberglass tanks sustaining engine damage due to fiberglass resin compounds being carried by the fuel into the engine and deposited onto intake valves. Although in other states, boat owners with these problems have replaced their tanks, boat owners in Hawaii are seeking another solution.

The Underwriters Laboratory listing and testing for fuel system parts has included compatibility with gasoline containing ten per cent ethanol since the 1980s. However, at the time certain types of power equipment were manufactured, the owner's manuals for the equipment did not explicitly describe or allow the use of ethanol-blended gasoline.

Further, the Federal Aviation Administration has strict regulations in place that require only aviation grade fuels to be used in certificated aircraft. There are supplemental type certificates in use that allow some "properly altered" aircraft to use automotive grade fuels. Federal Aviation Administration Special Airworthiness Information Bulletin CE 07-06, dated October 27, 2006, states that gasoline containing ethanol is not acceptable unless specifically approved by the type certificate or supplemental type certificates. This also affects light sport aircraft that use Rotax engines. Rotax has issued a notice not to use gasoline containing lead or ethanol in their engines. Although the quantity of motor gasoline used in aviation is small, because motor gasoline refueling of aircraft has not generally been available at airfields in the State, the owners of affected aircraft on Oahu and the Big Island do not yet have convenient access to non-ethanol fuel. Additionally, owners of affected aircraft on Maui and Kauai are unable to fly for the foreseeable future unless non-ethanol gasoline becomes available on these islands.

Finally, the legislature finds that non-automobile demand for gasoline that does not contain ethanol may be less than one tenth of a per cent of the total amount of gasoline sold throughout the State. Typically, the Hawaii Before Oxygenate Blend gasoline manufactured conforms to all ASTM base-gasoline standards for automobile use only. Nonetheless, small non-automobile use consumer groups seek gasoline that does not contain ethanol, and an attempt should be made to allow the free market to fill the need for these niche markets prior to the imposition of mandates upon the market. This objective needs to be achieved without appreciably reducing the energy diversification goals of the State.

The purpose of this Act is to require fuel distributors to report to the department of business, economic development, and tourism on the distribution and availability of gasoline that does not contain ethanol in order to provide information to the legislature to be used in determining future policy for these niche gasoline markets.

**SECTION 2.** On or before December 1, 2007, all distributors shall report to the department of business, economic development and tourism, in a format prescribed by the department, on their distribution and availability of gasoline that does not contain ethanol. The department of business, economic development, and tourism shall report its findings to the legislature no later than twenty days prior to the

convening of the regular session of 2008. For the purposes of this section, “distributor” shall have the same meaning as in 486J-1, Hawaii Revised Statutes.

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

(Approved June 5, 2007.)

**ACT 131**

H.B. NO. 104

A Bill for an Act Relating to Health.

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

SECTION 1. The legislature finds that medicaid is the cornerstone of health care for our most needy population. Further, the legislature has previously recognized that it is in the public interest to ensure that health care payments made with state funds or controlled by the State are sufficient to cover the actual costs of care.

Hawaii’s hospitals in particular have been detrimentally affected by the inadequacy of medicaid reimbursements and payments. Hawaii’s hospitals have annually lost millions of dollars because government reimbursement is far below the cost of providing medical care. Between 2003 and 2005, medicaid payments to hospitals covered only seventy-three to seventy-eight per cent of total medicaid costs, creating a strain on the hospitals’ financial stability.

Through the efforts of Hawaii’s senatorial delegation, a one-time federal medicaid disproportionate share hospital (DSH) appropriation of \$10,000,000 has been secured for Hawaii for 2007. State funds are needed to match the federal DSH monies. The combined funding will help meet the rising health care needs of our communities.

The purpose of this Act is to meet rising health care costs and ensure that Hawaii’s residents have continued access to quality health care by appropriating funds for the State’s portion of the federal disproportionate share hospital allowance.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$7,376,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the State’s portion of the federal disproportionate share hospital allowance.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2007.

(Approved June 5, 2007.)

**ACT 132**

H.B. NO. 1568

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 departmental administration and budget division (BUF

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101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (5):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$42,057,128	\$71,928,227
Special funds	\$3,008	\$4,811
Federal funds	\$1,278,426	\$2,205,199
Other funds	\$9,645	\$16,673

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure 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 departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining unit (5):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$143,151	\$246,472
Special funds	\$2,002	\$3,203
Federal funds	\$1,037,712	\$1,790,030

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

**PART III**

SECTION 5. There are appropriated or authorized from the source of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the voluntary employee benefit association costs in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (5):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	—————	\$2,663,104

SECTION 6. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

**PART IV**

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

SECTION 8. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2008, and June 30, 2009, of the respective fiscal years, shall lapse as of those dates.

SECTION 9. This Act shall take effect on July 1, 2007.

(Approved June 5, 2007.)

**ACT 133**

H.B. NO. 1569

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 departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (10):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	\$4,463,170	\$9,199,326
Federal Funds	\$84,717	\$179,855

Of the above listed amounts, the following amounts are for the department of education:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	\$51,277	\$111,846

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure 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 departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining unit (10):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	\$61,865	\$133,169
Federal Funds	\$209	\$301

Of the above listed amounts, the following amounts are for the department of education:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	\$498	\$1,086

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in each respective fiscal year for the purposes of this part.

PART III

SECTION 5. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (10):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	\$99,037	\$215,868

SECTION 6. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

PART IV

SECTION 7. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, by the chief justice for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining unit (10):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	\$736	\$1,605

SECTION 8. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

PART V

SECTION 9. There are appropriated or authorized from the sources of funding indicated below to hospital care - Hawaii health systems corporation (HTH 210) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments in the agreement negotiated for state officers and employees in collective bargaining unit (10) assigned to the Hawaii health systems corporation:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$2,288,876	\$4,835,359

SECTION 10. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

PART VI

SECTION 11. There are appropriated or authorized from the sources of funding indicated below to hospital care - Hawaii health systems corporation (HTH

210) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (10) assigned to the Hawaii health systems corporation:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$131,845	\$282,970

SECTION 12. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

PART VII

SECTION 13. There are appropriated or authorized from the sources of funding indicated below to Hawaii employer-union trust fund (BUF 143) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the Hawaii employer-union health benefits trust fund costs contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (10):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	————	\$581,508

Of the above listed amounts, the following amounts are for the department of education:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	————	\$2,526

SECTION 14. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state agencies for expenditure in the respective fiscal year for the purposes of this part.

PART VIII

SECTION 15. There are appropriated or authorized from the sources of funding indicated below to Hawaii employer-union trust fund (BUF 143) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the Hawaii employer-union health benefits trust fund costs authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (10):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	————	\$1,331

SECTION 16. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state agencies for expenditure in the respective fiscal year for the purposes of this part.

PART IX

SECTION 17. 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 18. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2008, and June 30, 2009, of the respective fiscal years, shall lapse as of those dates.

SECTION 19. This Act shall take effect on July 1, 2007.

(Approved June 5, 2007.)

ACT 134

H.B. NO. 1567

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. 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 for fiscal year 2007-2008 to fund the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for officers and employees of these agencies excluded from collective bargaining:

	<u>FY 2007-2008</u>
State ethics commission	\$ 20,976
Office of the auditor	\$110,011
Office of the legislative reference bureau	\$ 99,525
Office of the ombudsman	\$ 40,916

The sums appropriated shall be expended by the respective heads of the legislative agencies for the purposes of this Act.

SECTION 2. 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 proportionally, as the case may be, from the respective funds.

SECTION 3. 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 that date.

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved June 5, 2007.)

ACT 135

H.B. NO. 1570

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 departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 all collective bargaining salary increases and other cost adjustments contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (11):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$87,439	\$179,174
Special funds	\$697,980	\$1,481,498

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in each 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 departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees in the executive branch who are excluded from collective bargaining:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$5,730	\$11,862
Special funds	\$42,898	\$89,867

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in each respective fiscal year for the purposes of this part.

PART III

SECTION 5. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the Hawaii employer-union health benefits trust fund costs contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (11):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$0	\$40,540

SECTION 6. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in each respective fiscal year for the purposes of this part.

PART IV

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

SECTION 8. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2008, and June 30, 2009, of the respective fiscal years, shall lapse as of those dates.

SECTION 9. This Act shall take effect on July 1, 2007.

(Approved June 5, 2007.)

ACT 136

H.B. NO. 1572

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 departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (1):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$6,013,972	\$13,489,106
Special funds	\$2,122,809	\$4,476,306
Federal funds	\$273,934	\$623,824
Other funds	\$125,409	\$277,779

Of the above listed amounts, the following amounts are for the department of education, including the Hawaii state public library system:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$3,437,899	\$7,711,350

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure 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 departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining unit (1):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$153,881	\$322,534
Special funds	\$109,190	\$224,820
Federal funds	\$5,790	\$13,317

Of the above listed amounts, the following amounts are for the department of education, including the Hawaii state public library system:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$134,079	\$275,858
Special funds	\$105,990	\$217,670

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART III

SECTION 5. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (1):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$99,749	\$224,163

SECTION 6. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

PART IV

SECTION 7. There are appropriated or authorized from the sources of funding indicated below to hospital care - Hawaii health systems corporation (HTH 210) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments in the agreement negotiated for state officers and employees in collective bargaining unit (1) assigned to the Hawaii health systems corporation:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$1,071,668	\$2,275,537

SECTION 8. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

PART V

SECTION 9. There are appropriated or authorized from the sources of funding indicated below to hospital care - Hawaii health systems corporation (HTH 210) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustment authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those

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officers and employees within collective bargaining unit (1) assigned to the Hawaii health systems corporation:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$40,374	\$84,901

SECTION 10. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

**PART VI**

SECTION 11. There are appropriated or authorized from the sources of funding indicated below to Hawaii employer-union health benefits trust fund (BUF 143) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the Hawaii employer-union health benefits trust fund costs contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (1):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	—————	\$393,526

Of the above listed amounts, the following amounts are for the department of education, including the Hawaii state public library system:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	—————	\$65,610

SECTION 12. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state agencies for expenditure in the respective fiscal year for the purposes of this part.

**PART VII**

SECTION 13. There are appropriated or authorized from the sources of funding indicated below to Hawaii employer-union health benefits trust fund (BUF 143) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2007-2009 the Hawaii employer-union health benefits trust fund costs authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining unit (1):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	—————	\$1,000

SECTION 14. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state agencies for expenditure in the respective fiscal year for the purposes of this part.

**PART VIII**

SECTION 15. 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 16. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2008, and June 30, 2009, of the respective fiscal years, shall lapse as of those dates.

SECTION 17. This Act shall take effect on July 1, 2007.

(Approved June 5, 2007.)

**ACT 137**

S.B. NO. 1382

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 departmental administration & budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments in the agreement negotiated with the exclusive bargaining representative of collective bargaining units (2), (3), (4), (6), (8), and (13):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	35,094,211	74,142,438
Special Funds	3,811,858	7,855,848
Federal Funds	4,792,045	9,874,114
Other Funds	3,071,946	6,280,504

Of the above listed amounts, the following amounts are for the department of education, including the Hawaii state public library system:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	14,752,315	31,697,912
Special Funds	48,427	93,636
Federal Funds	431,879	924,941
Other Funds	128,684	260,817

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure 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 departmental administration & budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (2), (3), (4), (6), (8), and (13):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	5,281,430	10,660,055
Special Funds	859,484	1,653,827
Federal Funds	380,766	760,192
Other Funds	516,973	960,660

Of the above listed amounts, the following amounts are for the department of education, including the Hawaii state public library system:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	921,619	1,937,126
Special Funds	7,060	15,175
Federal Funds	67,966	147,367
Other Funds	6,217	13,635

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

**PART III**

SECTION 5. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments in the agreement negotiated with the exclusive bargaining representative of collective bargaining units (2), (3), (4), and (13):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	2,867,827	6,136,223
Special Funds	77,436	170,507

SECTION 6. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

**PART IV**

SECTION 7. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, by the chief justice for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining units (2), (3), (4), and (13):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	457,364	979,790
Special Funds	6,386	13,182

SECTION 8. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

**PART V**

SECTION 9. There are appropriated or authorized from the sources of funding indicated below to hospital care - Hawaii health systems corporation (HTH 210) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments in the agreement negotiated for state officers and employees in collective bargaining units (2), (3), (4), and (13) assigned to the Hawaii health systems corporation:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	2,477,113	5,166,294

SECTION 10. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

**PART VI**

SECTION 11. There are appropriated or authorized from the sources of funding indicated below to hospital care - Hawaii health systems corporation (HTH 210) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining units (2), (3), (4), and (13) assigned to the Hawaii health systems corporation:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	515,293	1,026,720

SECTION 12. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

**PART VII**

SECTION 13. There are appropriated or authorized from the sources of funding indicated below to the Hawaii employer-union trust fund (BUF 143) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the Hawaii employer-union health benefits trust fund costs contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining units (2), (3), (4), (6), (8), and (13):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	-0-	1,743,805

Of the above listed amounts, the following amounts are for the department of education, including the Hawaii state public library system:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	-0-	520,207

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SECTION 14. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state agencies for expenditure in the respective fiscal year for the purposes of this part.

**PART VIII**

SECTION 15. There are appropriated or authorized from the sources of funding indicated below to Hawaii employer-union trust fund (BUF 143) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the Hawaii employer-union health benefits trust fund costs authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining units (2), (3), (4), (6), (8), and (13):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	-0-	247,082

Of the above listed amounts, the following amounts are for the department of education, including the Hawaii state public library system:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	-0-	85

SECTION 16. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state agencies for expenditure in the respective fiscal year for the purposes of this part.

**PART IX**

SECTION 17. 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 18. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2008, and June 30, 2009, of the respective fiscal years, shall lapse as of those dates.

SECTION 19. This Act shall take effect on July 1, 2007.

(Approved June 5, 2007.)

**ACT 138**

S.B. NO. 1388

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 departmental administration & budget division (BUF

101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (9):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	1,966,506	4,788,858
Special Funds	6,171	15,636
Federal Funds	206,876	489,142
Other Funds	35,605	96,094

Of the above listed amounts, the following amounts are for the department of education:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	9,291	23,506

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure 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 departmental administration & budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (9):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	20,139	41,514
Special Funds	209	301

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

**PART III**

SECTION 5. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (9):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	8,083	22,123

SECTION 6. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

**PART IV**

SECTION 7. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, by the chief justice for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (9):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	3,772	9,423

SECTION 8. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

**PART V**

SECTION 9. There are appropriated or authorized from the sources of funding indicated below to hospital care - Hawaii health systems corporation (HTH 210) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 all collective bargaining cost items in the agreement negotiated for state officers and employees in collective bargaining unit (9) assigned to the Hawaii health systems corporation:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	4,426,312	10,965,086

SECTION 10. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

**PART VI**

SECTION 11. There are appropriated or authorized from the sources of funding indicated below to hospital care - Hawaii health systems corporation (HTH 210) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (9) assigned to the Hawaii health systems corporation:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	242,534	486,370

SECTION 12. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

## PART VII

SECTION 13. There are appropriated or authorized from the sources of funding indicated below to Hawaii employer-union trust fund (BUF 143) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2007-2009 the Hawaii employer-union health benefits trust fund costs contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (9):

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General Funds	-0-	155,009

SECTION 14. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state agencies for expenditure in the respective fiscal year for the purposes of this part.

## PART VIII

SECTION 15. 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 16. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2008, and June 30, 2009, of the respective fiscal years, shall lapse as of those dates.

SECTION 17. This Act shall take effect on July 1, 2007.

(Approved June 5, 2007.)

## ACT 139

S.B. NO. 1515

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

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

SECTION 1. The legislature finds that all users and tenants of state harbor and other harbor facilities are required to comply with all applicable federal, state, or county laws, ordinances, and rules. If a harbor user or tenant is responsible for a violation of applicable laws that results in a fine assessed against the State, the harbor user or tenant should pay the fine.

SECTION 2. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**“§266- Fines arising from environmental protection violations.** Notwithstanding any other law to the contrary, any commercial harbor tenant or user, including any shipper or shipping agent, who violates any federal, state, or county law or rule relating to environmental protection and thereby causes a fine to be levied upon the department, shall reimburse the department for the entire amount of the fine. The department may take such actions necessary to collect any amount

## ACT 140

reimbursable under this section, and may also demand reimbursement for costs or expenses incurred by the department resulting from enforcement of this section.”

SECTION 3. Section 266-25, Hawaii Revised Statutes, is amended to read as follows:

**“§266-25 Violation of rules; penalty.** [Any] In addition to the reimbursement of fines and costs as provided in section 266-, any person who violates any rule made, adopted, and published by the department of transportation as herein provided, or who violates any lawful command of any harbor master, harbor agent, or harbor district manager, while in the discharge of the person’s duty, or who violates this chapter, shall be fined not more than \$10,000 for each offense, and any vessel, the agents, owner, or crew of which violate the rules of the department or this chapter, shall be fined not more than \$10,000 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.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

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

(Approved June 6, 2007.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 140

H.B. NO. 1352

A Bill for an Act Establishing a Commission to Plan for the Fiftieth Anniversary of Hawaii Statehood.

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

SECTION 1. The purpose of this Act is to create a commission composed of members from a wide range of Hawaii’s communities to plan and coordinate the public celebration of the fiftieth anniversary of Hawaii’s admission to statehood in the United States of America.

The legislature finds and declares that the appropriation under this Act is in the public interest and would benefit the residents of Hawaii.

SECTION 2. (a) There is established a temporary commission to be known as the fiftieth anniversary of statehood commission consisting of twenty-five members who shall be selected as provided in this Act, without regard to section 26-34, Hawaii Revised Statutes.

(b) The commission shall be placed within the office of the governor for administrative purposes and shall cease to exist after December 31, 2009.

(c) The commission shall be composed of the following members, whose selection shall be without regard to section 26-34, Hawaii Revised Statutes:

- (1) Six members to be selected by the president of the senate;
- (2) Six members to be selected by the speaker of the house of representatives;
- (3) Five members to be selected by the governor;

- (4) One member to represent each county, to be selected by the mayor of the respective county;
- (5) One member to represent the office of Hawaiian affairs, to be selected by that organization;
- (6) One member to represent the Hawaii tourism authority, to be selected by that organization;
- (7) One member to represent the state foundation on culture and the arts, to be selected by that organization; and
- (8) One member to represent the military, to be selected by the Commander, United States Pacific Command.

SECTION 3. The commission shall develop, plan, and coordinate various program activities to be scheduled to celebrate and commemorate the fiftieth anniversary of the admission of Hawaii to statehood, including a series of events scheduled for August 2009, and shall submit to the legislature, no later than twenty days prior to the convening of the regular session of 2009, a written report of its recommendations, including the following:

- (1) A detailed plan on how to execute its recommendations; and
- (2) Identifying and recommending procedures for the appropriate disbursement of any public funds.

SECTION 4. The chair of the commission shall be selected by the commission members. Members of the commission may elect any subordinate officers that the commission deems appropriate among the members but, at a minimum, shall elect a vice chair, vice chair for finance, and vice chair for events.

SECTION 5. A vacancy on the commission shall be filled by the same selection authority that appointed the vacating member.

SECTION 6. Commission members shall serve on a voluntary basis without compensation, but shall be entitled to reimbursement for necessary expenses, including travel expenses, for attending commission meetings and while in the discharge of their duties and responsibilities under this Act.

SECTION 7. Fifteen members shall constitute a quorum to do business. An affirmative vote of thirteen members shall be necessary to make decisions. The commission's meeting schedule shall be determined by the commission members.

SECTION 8. There is appropriated out of the tourism special fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2007-2008 to be used by the commission for the purposes of this Act.

The sum appropriated shall be expended by the Hawaii tourism authority for the purposes of this Act.

SECTION 9. Any provision of this Act to the contrary notwithstanding, the appropriation authorized under this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided that any unexpended and unencumbered balance of the appropriation made in this Act as of the close of business on December 31, 2009, shall lapse.

SECTION 10. This Act shall take effect upon its approval; provided that section 8 shall take effect on July 1, 2007.

(Approved June 6, 2007.)

A Bill for an Act Relating to Transportation.

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

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

“§264- **Emergency powers; traffic emergency zones.** (a) Notwithstanding any law to the contrary, if the governor or state director of transportation, in the case of a state highway, or the mayor of a county or the county director of transportation, in the case of a county highway, determines that substantial endangerment to public health and safety is or is highly likely to be caused by the temporary closure of, or the lack of adequate access to an area by, a county highway or a state highway as defined under section 264-1(a), which requires immediate action, the governor or state director of transportation, in the case of a state highway, or a mayor of a county or the county director of transportation, in the case of a county highway, without a public hearing, may designate the area to be a traffic emergency zone, and may take any action that may be necessary until access to the designated area has been established. The designation shall fix a place and time, not later than twenty-four hours after the designation, for a hearing to be held before the state director of transportation, or the county director of transportation.

(b) Upon designation of an area as a traffic emergency zone by the governor or the state director of transportation, or the mayor of a county or the county director of transportation:

- (1) State or county highway or street improvements, including but not limited to new construction, reconstruction, preservation, resurfacing, restoration, or rehabilitation of any county or state highway may be undertaken without regard to chapter 103D;
- (2) All structures and improvements to land to be used for state or county highway purposes:
  - (A) May be planned, designed, and constructed by the appropriate state or county department without the approval of county agencies; and
  - (B) Shall be exempt from any county permitting requirements; and
- (3) The state department of transportation or county department of transportation may acquire and designate cane haul roads as state or county highways; provided that the use of cane haul roads as state or county highways shall be for temporary purposes only for a period of time as determined by the state or county director of transportation, but for no longer than the public health and safety requires.

(c) Any other law to the contrary notwithstanding, except as otherwise provided in subsection (d), any decision under this section by the governor, the department of transportation, the mayor of a county, the transportation department of a county, or any officers, employees, or agents of the State or a county, shall not give rise to a cause of action or claim against:

- (1) The State or any county;
- (2) The state department of transportation;
- (3) A county department of transportation; or
- (4) Any officer, employee, or agent of an entity under paragraphs (1) to (3).

(d) There shall be a qualified standard of care of the common-law emergency doctrine that shall apply to a claim of negligence in any design, construction, repair, and correction undertaken pursuant to this section.

(e) Where a cane haul road is designated as a state or county highway under subsection (b)(3), the State or county, as the case may be, shall indemnify the owner of the cane haul road from any liability that may arise out of the use of such cane haul road when designated as a state highway.

(f) For the purposes of this section:

“Cane haul road” means a road that is part of an agricultural system of roads or ways established to take agricultural products from the fields to processing facilities without using the public highways.

“County highway” shall have the same meaning as in section 264-1(a).

“State highway” shall have the same meaning as in section 264-1(a).

“Traffic emergency zone” means an area that is accessible by a single state highway and whose accessibility would be compromised by major motor vehicle accidents, fires, floods, erosion, or other factors that would cause the closure of a state or county highway and causes or is highly likely to cause substantial endangerment to public health and safety.

(g) Each designation of a traffic emergency zone shall expire within five years.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 6, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 142**

S.B. NO. 1929

A Bill for an Act Relating to Public Procurement.

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

SECTION 1. Section 103D-106, Hawaii Revised Statutes, is amended to read as follows:

~~“[§103D-106] Penalties. (a) 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];~~

(1) Subject to removal from office;

(2) 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[-]; and

(3) Subject to imposition of an administrative fine under subsection (b).

(b) After reasonable notice and reasonable opportunity to be heard, the chief procurement officer, after consultation with the using agency and the attorney general or corporation counsel, as applicable, may render a written decision or issue a written order providing for the assessment of an administrative fine against a person found to have violated this chapter; provided that:

(1) The amount of the fine shall be set out in rules adopted by the policy board pursuant to section 103D-202; and

(2) The written decision or order shall be final and conclusive, subject to an administrative review under section 103D-709.”

## ACT 143

SECTION 2. Section 103D-709, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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, person aggrieved under section 103D-106, 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]~~ section 103D-310, 103D-701, or 103D-702.”

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 and stricken. New statutory material is underscored.

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

(Approved June 6, 2007.)

## ACT 143

H.B. NO. 1931

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Projects on the Island of Hawaii.

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

SECTION 1. Act 263, Session Laws of Hawaii 1993, as amended by Act 135, Session Laws of Hawaii 1998, as amended by Act 80, Session Laws of Hawaii 2002, is amended by amending section 3A to read as follows:

“SECTION 3A. The department of budget and finance is authorized to issue from time to time, including times subsequent to June 30, [2007,] 2011, refunding special purpose revenue bonds in whatever principal amounts as the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 of Act 263, Session Laws of Hawaii 1993, as amended by Act 135, Session Laws of Hawaii 1998, and Act 80, Session Laws of Hawaii 2002, and any refunding of 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 or whether 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 by this section.”

SECTION 2. Act 263, Session Laws of Hawaii 1993, as amended by Act 135, Session Laws of Hawaii 1998, and Act 80, Session Laws of Hawaii 2002, is amended by amending section 4 to read as follows:

“SECTION 4. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, [2007,] 2011.”

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 and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on June 29, 2007.

(Approved June 6, 2007.)

## ACT 144

S.B. NO. 914

A Bill for an Act Relating to Mental Health Issues of Committed Persons.

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

SECTION 1. The legislature finds that mental health services at the Oahu community correctional center are alarmingly inadequate and have been the subject of ongoing federal investigation. These inadequacies have created conditions that threaten the constitutional rights of the committed persons detained therein.

The legislature further finds that up to forty per cent of the committed persons in the State's correctional facilities are mentally ill. Recent communications with experts retained by the federal Department of Justice have noted many insufficiencies, including:

- (1) Inadequate staffing, including a lack of a director of mental health services and trained mental health professionals;
- (2) A lack of individualized treatment planning and documentation;
- (3) A confusing and inconsistent organizational structure;
- (4) Outdated and unused policies and procedures; and
- (5) Inadequate access to psychiatric hospitalization.

The purpose of this Act is to provide funds to the department of public safety to remedy the inadequacies of mental health care services provided to persons committed to Hawaii state correctional facilities, and to monitor the progress of this remediation.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary for fiscal year 2007-2008 for improvements to the mental health care system of committed persons in state-operated correctional facilities that will address the concerns expressed by the experts retained by the federal Department of Justice.

The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

SECTION 3. The department of public safety shall report to the legislature by November 1, 2007, with a detailed mental health plan that addresses the following:

- (1) An assessment of the department's existing resources and staffing, and of additional resources and staffing needed to bring mental health services up to standard and to keep up with future demands;
- (2) The use of alternative services, such as the use of telemedicine, to provide mental health services to incarcerated offenders;
- (3) The completion of a departmental training and policy manual;

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- (4) The appropriate type of updated record-keeping system;
- (5) An update on the feasibility study initiated by the departments of health and public safety regarding the expansion of the Hawaii state hospital to include an offender wing so as to be able to adequately treat mental health patients who are incarcerated; and
- (6) Any other suggestions or ideas to improve mental health services to incarcerated individuals and to comply with local, state, and federal laws and mandates.

This written report shall be submitted in a form understandable by lay readers and made available to the public.

SECTION 4. The department of public safety shall report to the legislature not later than twenty days prior to the commencement of the 2008 regular session, and every session thereafter, with its achievements, continuing improvements, and ongoing problems in providing the appropriate mental health care to committed persons under its jurisdiction.

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved June 6, 2007.)

ACT 145

H.B. NO. 402

A Bill for an Act Relating to the Land Conservation Fund.

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

SECTION 1. Section 173A-5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) The fund shall be used for:

- (1) The acquisition of interests or rights in land having value as a resource to the State, whether in fee title or through the establishment of permanent conservation easements under chapter 198~~[-and]~~ or agricultural easements;

- (2) The payment of any debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State; and

- [2] (3) Annual administration costs for the fund, not to exceed five per cent of annual fund revenues of the previous year.”

SECTION 2. Section 198-1, Hawaii Revised Statutes, is amended to read as follows:

“**§198-1 Conservation easement defined.** For the purposes of this chapter, a “conservation easement” is an interest in real property created by deed, restrictions, covenants, or conditions, the purpose of which is to:

- (1) Preserve and protect land predominantly in its natural, scenic, forested, or open-space condition;
- (2) Preserve and protect the structural integrity and physical appearance of cultural landscapes, resources, and sites which perpetuate indigenous native Hawaiian culture; [or]

- (3) Preserve and protect historic properties as defined in section 6E-2, and traditional and family cemeteries[-]; or
- (4) Preserve and protect land for agricultural use.”

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

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved June 6, 2007.)

## ACT 146

H.B. NO. 25

A Bill for an Act Relating to Teacher Licensing.

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

SECTION 1. The legislature finds that Hawaii’s public schools would be well served if there were an abundance of highly qualified teachers from which public school principals could select.

SECTION 2. Section 302A-802, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The board shall adopt policies, exempt from chapters 91 and 92, to initiate the following:

- (1) Develop criteria allowing more individuals with trade or industry experience to teach in vocational, technical, and career pathway programs, and criteria for the issuance of permits allowing qualified individuals to teach when recommended by the superintendent. The department shall be responsible for the review and acceptance of the relevant licenses, certificates, or other qualifications related to an individual’s vocational, technical, or career pathway education-related experience that the department deems necessary for a permit. The department shall have the authority to waive the requirement of a bachelor’s degree to teach in a vocation, technical, or career pathway education program;
- (2) Develop a plan to accept teachers from any state as long as they have completed state-approved teacher education programs and pass relevant Hawaii teacher examinations or their equivalent;
- (3) Clarify the requirements, on a state-by-state basis, for out-of-state licensed teachers to obtain a license in Hawaii;
- (4) Develop a plan to facilitate licensing for those who intend to teach in Hawaii immersion programs, the island of Niihau, or any other extraordinary situation as defined by the superintendent or the superintendent’s designee; [and]
- (5) Pursue full teacher license reciprocity with [~~the mid-Atlantic states, California, Colorado, Illinois, Michigan, New York, Oregon, and Washington.~~] all other states; and
- (6) Issue a license to a teacher with a valid out-of-state license who has passed similar, though not identical, tests in basic skills, pedagogy, and subject matter to those required for licensure in the State; provided that upon the effective date of the adoption of administrative rules

addressing the recognition of out-of-state teacher licenses, those administrative rules shall supersede the requirements of this paragraph.”

SECTION 3. The Hawaii teacher standards board shall provide notification to the chairs of the senate committee on education and the house of representatives committee on education upon the adoption of the administrative rules relating to the issuance of licenses to teachers with valid out-of-state licenses who have passed similar, though not identical, tests in basic skills, pedagogy, and subject matter to those required for licensure in the State.

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

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

(Approved June 6, 2007.)

**ACT 147**

S.B. NO. 1115

A Bill for an Act Relating to Perinatal Care.

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

SECTION 1. Act 248, Session Laws of Hawaii 2006, is amended by amending section 3 to read as follows:

“SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of [~~\$400,000~~] \$200,000 or so much thereof as may be necessary for fiscal year [~~2006-2007~~] 2007-2008, to establish a pilot perinatal clinic and provide case management services.

The sum appropriated shall be expended by the [~~John A. Burns school of medicine university clinical educational and research associates program at the University of Hawaii department of obstetrics, gynecology, and women’s health] department of human services for the purposes of this Act.”~~

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

SECTION 3. This Act shall take effect on July 1, 2007.

(Approved June 6, 2007.)

**ACT 148**

S.B. NO. 709

A Bill for an Act Relating to Economic Development.

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

SECTION 1. The legislature finds that the focal points of Hawaii’s economic policy have remained the same for decades: maximize visitor arrivals and spending, encourage strong construction and real estate industries, increase federal funding for military and civilian projects, monitor tax revenues and their impact on public sector

employment, and maintain consistent job growth to keep the unemployment level low. Although these economic policies are still significant to the State's economic development and health, new economic objectives are needed in addition to these traditional policies for Hawaii to succeed in what is today characterized as the "global innovation economy."

The innovation economy requires learning to function in a world that is more technologically advanced, more global, and more knowledge-intensive. In *A New Economy in Hawaii 2005 Indicators and Recommendations* published by the Hawaii Institute for Public Affairs, five policy objectives are identified and recommended for Hawaii to compete in the global marketplace. These policy objectives are:

- (1) Quickly develop high technology industries consisting of profitable and sustainable companies;
- (2) Maximize competitiveness and overall efficiency by infusing all industries with technology;
- (3) Prepare, employ, and retain a strong workforce for the global economy;
- (4) Create a pervasive culture of innovation, initiative, and enterprise; and
- (5) Help Hawaii companies survive and thrive in the global economy.

These new economic policy objectives require proper measurements to enable the State to set benchmarks and goals for Hawaii to grow and prosper in today's global economy.

Between 1998 and 2003, City Bank and *Hawaii Business* magazine targeted nine emerging industries in Hawaii, which represented a combined total of \$2,700,000,000 in expenditures and thousands of new jobs. The combined total growth projections of these emerging industries are roughly comparable to the impact and magnitude of Hawaii's tourism industry and should be measured and developed as an equally significant pillar of Hawaii's economy. With a growing emphasis on stewardship and sustainability from a land use, resource allocation, and developmental perspective, Hawaii cannot afford to continue relying so heavily upon a dominant industry that depends almost exclusively upon fossil fuel-burning transportation (e.g., airline transportation) as the primary means by which Hawaii's millions of visitors arrive.

Currently, the State does not have a consistent means of tracking progress, setting goals, and creating policies to achieve global innovation economy objectives. Data such as service exports, training and education outside of the traditional school system, self-sufficiency wages, job creation, impact of business tax credits, and quality of life indicators all can be used to establish new economic goals and determine priorities for public investments in workforce development and emerging industries development.

The purpose of this Act is to require the department of business, economic development, and tourism to collect, analyze, and disseminate appropriate data to measure the growth industries that have the potential to transform Hawaii's economy and to accelerate their development into more robust pillars of Hawaii's society.

SECTION 2. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§201- Research and statistics for growth industries.** (a) The department shall maintain a program for the purpose of:

- (1) Measuring and analyzing new economic development trends within growth industries such as:
  - (A) Ocean sciences and technology;
  - (B) Biotechnology and life sciences;
  - (C) Astronomy;

- (D) Technology and information services;
  - (E) Film and creative media;
  - (F) Diversified agriculture;
  - (G) Aquaculture; and
  - (H) Specialty tourism;
- (2) Providing economic information to policy makers, the public, and the various growth industries under paragraph (1) for use in setting policies, objectives, and goals. This includes collecting, analyzing, and publishing available data on an annual basis relating but not limited to:
- (A) Economic diversification, income and income distribution, and issues and measures of the State's natural resources in relation to state sustainable economy goals;
  - (B) The technology sector of the State, including but not limited to defining the sector, estimating employment, and compiling available information on patents registered in Hawaii;
  - (C) Technology change in the economy, including but not limited to technical jobs outside the technology sector, and the changing applications of technology in the private economy and government;
  - (D) The technology-based workforce, including but not limited to management, technical, and professional jobs, and technology education and training;
  - (E) Innovation and enterprise, including but not limited to available information on startup companies, venture capital investment, private and government research and development activities, small business innovation research grants, and technology licensing;
  - (F) The dollar value of research and development conducted at, or in association with, the University of Hawaii;
  - (G) Global connections, including but not limited to diversification of export and visitor markets, foreign business travel, and the manufacturing of export products; and
  - (H) Venture capital investments in Hawaii, including but not limited to the size of local venture investments and their annual growth.

(b) The department shall submit to the legislature no later than twenty days prior to the convening of each regular legislative session, a written performance report on the impact of activities of the department and attached agencies that demonstrate their efforts to support, promote, and facilitate the expansion and long-term viability of emerging growth industries including those identified in subsection (a)(1)."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2008-2009 for additional resources, including two permanent full-time equivalent (2.00 FTE) economist positions in the department of business, economic development, and tourism. The purpose of the appropriation is to improve the State's ability to measure the productivity of and progress toward achieving innovation in Hawaii's economy, and to assess the effectiveness of measures enacted by the legislature to improve Hawaii's economic situation.

The sums appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved June 7, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 149**

S.B. NO. 907

A Bill for an Act Relating to Aerospace Development.

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

SECTION 1. The legislature finds that Hawaii's diverse natural resources, unique geographic terrain, first-class technological infrastructure, and resident scientific and engineering expertise make our island state an ideal location to develop, grow, and sustain a wide variety of aerospace-related activities. For nearly half a century, the State has supported our national space efforts, beginning with astronaut training programs in the late 1950s and the development of world-class observatories in the 1960s. Over the past three decades, the University of Hawaii, the United States military, and numerous companies statewide have also engaged in a variety of nationally-funded pioneering programs in planetary geosciences, satellite communications, remote sensing, environmental monitoring, and meteorology.

These activities were illustrated in a February 4, 2007, article in the *Honolulu Star-Bulletin* entitled "UH to launch satellites." The University of Hawaii small satellite program began in November 2001, and students have built several generations of small satellites called CubeSats, about the size of a soda can. Their first satellite, plus thirteen from other universities, was on a Russian rocket that crashed after liftoff in July 2006. While this outcome was disappointing, students remain focused on the goal of putting two satellites into orbit, with the first launch in 2009 and the second in 2010. Currently, nearly two dozen students are working on satellites ranging from those that can fit in the palm of a hand to the size of a microwave oven. About one hundred fifty students who worked on small satellites have graduated from the University of Hawaii, and most found jobs elsewhere. Building new initiatives in Hawaii will bring some of these students home and allow them to use their education in small-satellite technology in Hawaii.

The purpose of this Act is to position Hawaii to be nationally and globally competitive and recognized in aerospace development.

SECTION 2. Chapter 201, Hawaii Revised Statutes, is amended as follows:

1. By amending the title of part V to read:

**“~~[PART V.]~~ OFFICE OF ~~[SPACE INDUSTRY]~~ AEROSPACE DEVELOPMENT”**

2. By amending section 201-71 to read:

**“~~[§201-71]~~ Definitions.** As used in this part:

“Director” means the director of the office of ~~[space industry-]~~ aerospace development.

“Office” means the office of ~~[space industry-]~~ aerospace development.”

3. By amending the title and subsection (a) of section 201-72 to read:

“~~§201-72 Office of [space industry;] aerospace development; establishment.~~ (a) There is established an office of [space industry] aerospace development in the department of business, economic development, and tourism.”

4. By amending section 201-73 to read:

“~~[[§201-73]] Powers and duties of director.~~ In addition to any other powers and duties provided in this part, the director shall:

- (1) Oversee, supervise, and direct the planning, evaluation, and coordination of space-related activities and identify and promote opportunities for expanding and diversifying aerospace-related industries in the [State;] state, which may include a Pacific international center for space exploration systems to support space exploration and settlement;
- (2) Initiate discussions for private and international involvement in space-related activities in the [State;] state;
- (3) Assist the University of Hawaii, local companies, research institutions, and other interested organizations in establishing partnerships with corporate, government, and university entities that can promote and enhance the state's aerospace industry;
- (4) Leverage aerospace and related technological capabilities in the state's academic, public, and private sectors to enhance the State's ability to procure both federal and private research and development grants and to increase the state's competitiveness in national and global aerospace markets;
- (5) Promote innovative education and workforce development programs that will enhance public awareness of the state's aerospace potential and enable residents to pursue employment in Hawaii's aerospace industry;
- (6) Monitor national and global trends in the aerospace industry and recommend programs and policies that can support aerospace industry development statewide;
- ~~(3)~~ (7) Review the effectiveness of present publications, pamphlets, and other sources of information about Hawaii's space-related activities produced and distributed by the State;
- ~~(4)~~ ~~Have the office serve]~~ (8) Serve as a clearinghouse for information on Hawaii's space-related activities[;] to include but not be limited to[;] those of the University of Hawaii and federal agencies located in Hawaii;
- ~~(5)~~ ~~Develop a business plan for a commercial space facility and for pursuing appropriate business partners;~~
- (6) (9) Target existing businesses [which] that can provide products or services of importance to the space industry to support the expansion of [such] these businesses in Hawaii;
- ~~(7)~~ (10) Increase contact and maintain liaison with the National Aeronautics and Space Administration and other federal agencies and facilities;
- ~~(8)~~ (11) Institute procedures by which citizen input on proposed space facilities development shall be invited at the earliest possible time in the development process;
- ~~(9)~~ ~~Develop, in consultation with the office of Hawaiian affairs and other Hawaiian organizations, appropriate mechanisms for the consideration and protection of Hawaiian cultural values and resources, religious rights, and traditional and customary uses which may be affected by space-related activities;~~

- (10)] (12) Adopt, amend, and repeal rules pursuant to chapter 91 necessary to carry out this part;
- [(11)] (13) Contract for [such] services as may be necessary for the purposes of this part; and
- [(12)] (14) Do all other things necessary or proper to carry out the purposes of this part.”

5. By repealing section 201-74.

~~[[**§201-74** **Communities near space facilities; residents.** The director shall take steps to ensure that residents of communities surrounding space facilities are provided education and training pertaining to jobs created by space-related activities. The director shall ensure that space industry companies in the State are committed to hiring community residents for jobs for which they hold appropriate qualifications and providing goods and services for the enhancement of community life.']]~~

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the office of aerospace development to carry out its duties to identify and promote opportunities for expanding and diversifying aerospace-related industries in the State as follows:

1. Support for the 2007 Pacific international center for space exploration systems workshop and the Japanese – United States Science, Technology and Space Program Symposium \$60,000
2. Support for Hawaii’s representation at national and global aerospace conferences and exhibitions \$40,000
3. Support the development of the Pacific international center for space exploration systems, if the center is established under section 201-73(1), Hawaii Revised Statutes \$400,000

The sums appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

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

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved June 7, 2007.)

**ACT 150**

S.B. NO. 896

A Bill for an Act Relating to High Technology.

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

SECTION 1. The legislature finds that private developers are developing a four hundred thousand square foot class A life sciences research complex on 4.98 acres in the Kakaako district of Oahu, adjacent to the University of Hawaii John A. Burns school of medicine. The complex will be the only facility in Hawaii with class A wet laboratory space available to the non-institutional market and is positioned to

be a catalyst spawning new international life science collaborations in the Pacific Rim for both public and private sectors.

The high technology development corporation is currently negotiating a ten-year lease agreement for approximately sixty-six thousand square feet of laboratory and office space on three floors of the development. The corporation will operate a technology incubator and innovation center in the leased space, which will support the efforts of the adjacent University of Hawaii school of medicine, Cancer Research Center of Hawaii, and many related bioscience research institutions.

The center will allow the high technology development corporation to grow Hawaii's fledgling life-sciences industry by providing qualified start-up companies with high-quality incubator and innovation facilities. Currently, very little suitable specialty commercial laboratory space exists in Hawaii. Thirteen biotechnology companies did not select Hawaii as a site in the past three years due to the lack of suitable space. These companies needed twice as much space as will become available in the life sciences research complex, with the demand for space increasing even more.

The center will also support Hawaii's fledgling start-up high technology companies by reducing the risk and cost for these start-up companies. Once these companies achieve financing, it is critical that they commit their core capital to research, rather than the security needed to finance business infrastructure such as complex and expensive wet laboratory developments.

Many other jurisdictions are aggressively recruiting technology companies and start-ups and have undertaken similar efforts to create a life-sciences industry in communities such as San Diego, San Francisco, Boston, and North Carolina. New York uses a \$2,000,000,000 initiative fund to lure top tier biotechnology and pharmaceutical companies. The Kobe city government has paid for two-thirds of the development of the Kobe Bio Science Park in Kobe, Japan. These jurisdictions attract high technology companies by offering grants, subsidies, and other incentives to develop and grow businesses.

The competition to attract high technology companies is intense, and governments have had to lend financial support to compete in this market. They do so because high technology companies hire the knowledge and concept workers that are attracted by high-paying jobs and the opportunity to collaborate with other scientists and technicians. These jurisdictions know that high-technology industries produce high-quality jobs at all levels, from the beginning technician to the senior researcher, increase the jurisdiction's tax base and, most importantly, provide the critical mass and synergy for a sustainable industry.

The most successful states and communities locate their technology companies adjacent to major research institutions, creating a cluster effect. Hawaii's life sciences research complex will be located next to the recently completed University of Hawaii school of medicine in Kakaako, which will soon be joined by the Cancer Research Center of Hawaii and a regional biosafety laboratory.

The life sciences research complex is intended to be the catalyst for the development of the life-sciences industry in Hawaii and a place where the private research sector joins with the public research sector for innovation and entrepreneurship in the Kakaako core. It will more than double innovation space in Kakaako for future cluster growth, ultimately resulting in a total of four hundred thousand square feet of laboratory and office space dedicated to the high-technology industry.

The life sciences research complex will, in addition to new and meaningful career pathways for Hawaii's youth and residents, create an estimated one thousand new living-wage jobs. The project will allow the State to take the initiative in expanding incubation and innovation space for the life-sciences industry without bearing the cost or burden of construction alone.

The purpose of this Act is to support the development of the life-sciences industry in Hawaii by providing funding for a ten-year lease and the operations and

programs of a state-operated technology incubator and innovation center in a life sciences research complex to be developed in the Kakaako district of downtown Honolulu.

SECTION 2. The high technology development corporation, with assistance from the department of business, economic development, and tourism, shall negotiate with the developers, on terms acceptable and satisfactory to the corporation's board of directors and the director of finance, a lease agreement for a period of ten years for approximately sixty-six thousand square feet of laboratory and office space in a life sciences research complex in Kakaako.

SECTION 3. The high technology development corporation may enter into contracts to support the planning and development of a state-operated high technology incubator and innovation center as part of a life sciences research complex in the Kakaako district near downtown Honolulu.

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 2007-2008, and the sum of \$250,000 or so much thereof as may be necessary, for fiscal year 2008-2009, for the lease agreement between the high technology development corporation and the developers or owners of a life sciences research complex in Kakaako, and for plans for and operations of a high technology incubator and innovation center to be located in that complex.

The sums appropriated shall be expended by the high technology development corporation for the purposes of this Act, including expenditures for the initial phase of the development, the hiring of consultants and analysts to conduct necessary due diligence, the costs of the planning and pre-design phases, and the ongoing operations of the high technology incubator and innovation center, including any transitional costs and interim revenue losses due to the movement of tenants.

SECTION 5. The high technology development corporation shall submit to the legislature an annual progress report on its plans, agreements, expenditures, and other activities under this Act. The first report shall be submitted no later than twenty days prior to the convening of the regular session of 2008 and reports shall be submitted annually thereafter until the expiration of the lease agreement.

SECTION 6. The provisions of this Act are not intended to and shall not restrict or constrain the lease negotiations of the high technology development corporation, the department of business, economic development, and tourism, and the department of budget and finance with the developers of a life sciences research complex.

SECTION 7. This Act shall take effect on July 1, 2007.

(Approved June 7, 2007.)

## ACT 151

S.B. NO. 1222

A Bill for an Act Relating to Income Taxation.

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

SECTION 1. Section 235-12.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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“(a) When the requirements of subsection (c) are met, each individual or corporate [resident] taxpayer that files an individual or corporate net income tax return for a taxable year may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for every eligible renewable energy technology system that is installed and placed in service in the State by a taxpayer during the taxable year. This credit shall be available for systems installed and placed in service in the State after June 30, 2003. The tax credit may be claimed as follows:

- (1) Solar thermal energy systems for:
  - (A) Single-family residential property: thirty-five per cent of the actual cost or \$2,250, whichever is less;
  - (B) Multi-family residential property: thirty-five per cent of the actual cost or \$350 per unit, whichever is less; and
  - (C) Commercial property: thirty-five per cent of the actual cost or \$250,000, whichever is less;
- (2) Wind-powered energy systems for:
  - (A) Single-family residential property: twenty per cent of the actual cost or \$1,500, whichever is less;
  - (B) Multi-family residential property: twenty per cent of the actual cost or \$200 per unit, whichever is less; and
  - (C) Commercial property: twenty per cent of the actual cost or \$500,000, whichever is less; and
- (3) Photovoltaic energy systems for:
  - (A) Single-family residential property: thirty-five per cent of the actual cost or \$5,000, whichever is less;
  - (B) Multi-family residential property: thirty-five per cent of the actual cost or \$350 per unit, whichever is less; and
  - (C) Commercial property: thirty-five per cent of the actual cost or \$500,000, whichever is less;

provided that multiple owners of a single system shall be entitled to a single tax credit; and provided further that the tax credit shall be apportioned between the owners in proportion to their contribution to the cost of the system.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for every eligible renewable energy technology system that is installed and placed in service in the State by the entity. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 235-110.7(a).”

SECTION 2. Section 235-129, Hawaii Revised Statutes, is amended to read as follows:

“**§235-129 Tax credits.** (a) For purposes of section 235-55, each resident shareholder shall be considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder’s pro rata share of any net income tax paid by the S corporation to a state [which] that does not measure the income of S corporation shareholders by the income of the S corporation. For purposes of the preceding sentence, the term “net income tax” means any tax imposed on or measured by a corporation’s net income.

(b) Each shareholder of an S corporation shall be allowed a credit against the tax imposed by section 235-51 in an amount equal to the shareholder’s pro rata share of the tax [~~credits described in sections 209E-10, 235-12, 235-71(e), 235-55.91, 235-110.6, 235-110.7, and 235-110.8.~~ With the exception of the credit allowed by section 235-12, nonresident shareholders shall be allowed the credits allowed to resident shareholders which are earned by the S corporation in this State. The credit

~~allowed by section 235-12 shall be allowed to nonresident shareholders to the extent the credit is earned by virtue of property purchased and placed in service in this State.] credit earned by the S corporation in this State.”~~

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

SECTION 4. This Act shall take effect upon its approval and shall apply to taxable years beginning after December 31, 2006.

(Approved June 7, 2007.)

## ACT 152

S.B. NO. 1603

A Bill for an Act Relating to Liability.

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

SECTION 1. The legislature finds that the limitations on state and county liability have proven to be beneficial to the state and county governments, as well as the public. The liability protections have reduced the exposure of the state and county governments to substantial damages and, as a result, have allowed the state and county governments to keep recreational areas and public beach parks with potentially dangerous conditions open to the public. The legislature further finds that state and county compliance with the statutorily required public warning of dangerous conditions at recreational areas and public beach parks has contributed to an improvement in public safety in these areas, which justifies making the current liability exemptions for state and county governments relating to recreational areas and public beach parks and actions of county lifeguards permanent or extending their protections.

The legislature also finds that it is necessary to conform the statute of limitations for claims for damage and injury against the counties with the limitations period applicable to the State and private individuals generally to ensure fair and consistent application of the law.

### PART I

SECTION 2. The purpose of part I of this Act is to make permanent or to extend certain liability protections for state and county governments.

SECTION 3. Act 190, Session Laws of Hawaii 1996, as amended by Act 101, Session Laws of Hawaii 1999, as amended by Act 170, Session Laws of Hawaii 2002, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect on July 1, 1996[; ~~provided that this Act shall be repealed on June 30, 2007.~~”

SECTION 4. Act 170, Session Laws of Hawaii 2002, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval; provided that section 1 of this Act shall be repealed on June 30, [2007.] 2010.”

SECTION 5. Act 82, Session Laws of Hawaii 2003, is amended by amending section 8 to read as follows:

“SECTION 8. This Act shall take effect on July 1, 2003, and shall be repealed on June 30, [2008-] 2010.”

SECTION 6. (a) There shall be established a task force within the department of the attorney general to examine the effectiveness of, collect sufficient data relating to, and provide to the legislature information on Act 190, Session Laws of Hawaii 1996, as amended; Act 170, Session Laws of Hawaii 2002; and Act 82, Session Laws of Hawaii 2003.

(b) The task force shall include members as follows:

- (1) The attorney general or the attorney general’s designee as chair of the task force;
- (2) The president of the Hawaii state association of counties or the president’s designee;
- (3) The mayor of the city and county of Honolulu or the mayor’s designee;
- (4) The mayor of the county of Maui or the mayor’s designee;
- (5) The mayor of the county of Hawaii or the mayor’s designee;
- (6) The mayor of the county of Kauai or the mayor’s designee; and
- (7) The executive director of the Consumer Lawyers of Hawaii or the executive director’s designee.

(c) The task force shall:

- (1) Collect data on and examine the effectiveness of providing lifeguards conditional liability protection for lifeguard services at state beach parks, except for gross negligence and wanton acts or omissions;
- (2) Collect data on and examine the effectiveness and adequacy of warning signs at public beach parks in increasing public safety, reducing ocean-related accidents, and protecting the State and counties from unlimited liability with regard to activities in the ocean and at public beaches; and
- (3) Collect data on and examine the effectiveness and adequacy of warning signs at public recreational lands in increasing public safety, and protecting the State and counties from unlimited liability arising out of recreational activities on public lands.

(d) The task force shall submit its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the 2009 regular session.

## PART II

SECTION 7. The purpose of part II of this Act is to conform the statute of limitations for injuries or damages involving counties with the limitations applicable generally to the State and private citizens.

SECTION 8. Section 46-72, Hawaii Revised Statutes, is amended to read as follows:

“**§46-72 Liability for injuries or damages; notice [~~of injuries~~].** Before the county shall be liable for damages to any person for injuries to person or property received upon any of the streets, avenues, alleys, sidewalks, or other public places of the county, or on account of any negligence of any official or employee of the county, the person [sø] injured, or the owner or person entitled to the possession, occupation, or use of the property [sø] injured, or someone [in] on the person’s behalf, [shall,] within [~~six months~~] two years after the injuries [~~are received,~~]

accrued shall give the individual identified in the respective county's charter, or if none is specified, the chairperson of the council of the county or the [city] clerk of [Honolulu] the county in which the injuries occurred, notice in writing of the injuries and the specific damages resulting, stating fully [in the notice] when, where, and how the injuries or damage occurred, the extent [thereof,] of the injuries or damages, and the amount claimed [therefor]."

### PART III

SECTION 9. The purpose of part III of this Act is to authorize the State to indemnify the counties, under certain circumstances.

SECTION 10. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§46- Indemnification of county agencies.** (a) To receive county aid, assistance, support, benefits, services, and interests in or rights to use county property, a state agency may agree in writing to an indemnity provision by which the State agrees to indemnify, defend, and hold harmless a county agency, its officers, agents, and employees when:

- (1) The governor approves the State's proposed indemnification; and
- (2) The comptroller, pursuant to section 41D-8.5, has obtained an insurance policy or policies in an amount sufficient to cover the liability of the State that reasonably may be anticipated to arise under the indemnity provision, or has determined that it is not in the best interest of the State to obtain insurance.

(b) An indemnity provision not in strict compliance with this section shall not give rise to a claim against the State under chapter 661 or otherwise waive the State's sovereign immunity."

SECTION 11. Section 41D-8.5, Hawaii Revised Statutes, is amended to read as follows:

**"§41D-8.5 Insurance for indemnification.** The comptroller may:

- (1) Obtain sufficient loss insurance to cover the liability of the State that may arise from indemnity provisions agreed to pursuant to section 29-15.5; [and]
  - (2) Obtain sufficient loss insurance to indemnify, defend, and hold harmless a county providing assistance, services, rights, or permission to use county property to a state agency under an indemnity agreement provision pursuant to section 46- ; and
- [(2)] (3) Obtain appropriate and sufficient reinsurance to cover the liability of a captive insurance company established pursuant to section 41D-2."

### PART IV

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 and stricken. New statutory material is underscored.<sup>1</sup>

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SECTION 14. This Act shall take effect upon its approval; provided that sections 2, 3 and 4 of this Act shall take effect June 29, 2007.

(Approved June 7, 2007.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 153

H.B. NO. 1907

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Not-For-Profit Corporations that Provide Health Care Facilities.

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

SECTION 1. The legislature finds that it is in the public interest to encourage development of senior housing communities in the State of Hawaii. The legislature finds that the Craigsides Retirement Residence, a not-for-profit Hawaii corporation, is engaged in the development of a senior housing community, with a continuum of healthcare, in Honolulu on the island of Oahu and thereby serves the public.

The legislature finds that Craigsides Retirement Residence may be assisted through the issuance of special purpose revenue bonds because its senior housing community in Honolulu is a health care project as defined in part II, chapter 39A, Hawaii Revised Statutes.

SECTION 2. 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 3. 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 not to exceed \$120,000,000, in one or more series, for the purpose of assisting Craigsides Retirement Residence, a Hawaii not-for-profit corporation, for the purchase of land, and for the planning, design, and construction of a senior housing community. The legislature hereby finds and determines that the Craigsides Retirement Residence constitutes a healthcare facility as defined in part II, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a healthcare facility.

SECTION 4. The special purpose revenue bonds and the refunding 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 Craigsides Retirement Residence enterprises.

SECTION 5. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2012, to issue 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 3 and to refund 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 or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 3. 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 by this section.

SECTION 6. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2012.

SECTION 7. This Act shall take effect on July 1, 2007.

(Approved June 7, 2007.)

## ACT 154

H.B. NO. 1256

A Bill for an Act Relating to the Perfection of Appeals to the Tax Appeal Court.

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

SECTION 1. Section 232-16, Hawaii Revised Statutes, is amended to read as follows:

“**§232-16 Appeal to tax appeal court.** A taxpayer or county, in all cases, may appeal directly to the tax appeal court without appealing to a state board of review, or any equivalent administrative body established by county ordinance[5]. An appeal to the tax appeal court is properly commenced by filing, on or before the date fixed by law for the taking of the appeal, a written notice of appeal in the office of the tax appeal court[-] and by service of the notice of appeal on the director of taxation and, in the case of an appeal from a decision involving the county as a party, the real property assessment division of the county involved. An appealing taxpayer shall also pay the costs in the amount fixed by section 232-22. [~~The taxpayer or county shall also file a copy of the notice of appeal in the assessor’s office or mail a copy to the assessor not later than the date fixed by law for the taking of the appeal.~~]

The notice of appeal to the tax appeal court shall be sufficient if it meets the requirements prescribed for a notice of appeal to the board of review and may be amended at any time; provided that it sets forth the following additional information, to wit:

A brief description of the property involved in sufficient detail to identify the same and the valuation placed thereon by the assessor.

The notice of appeal shall be accompanied by a copy of the taxpayer’s return, if any has been filed.

An appeal to the tax appeal court shall be deemed to have been taken in time if the notice thereof and costs and the copy of the notice shall have been deposited in the mail, postage prepaid, properly addressed to the tax appeal court [~~and the assessor~~], the director of taxation, or the real property assessment division of the county involved, and to the taxpayer or taxpayers in the case of an appeal taken by a county, respectively, on or before the date fixed by law for the taking of the appeal.

An appeal to the tax appeal court shall bring up for review all questions of fact and all questions of law, including constitutional questions, necessary to the determination of the objections raised by the taxpayer or county in the notice of appeal.”

SECTION 2. Section 232-17, Hawaii Revised Statutes, is amended to read as follows:

**“§232-17 Appeals from boards of review to tax appeal court.** An appeal shall lie to the tax appeal court from the decision of a state board of review, or equivalent administrative body established by county ordinance~~[-, by the].~~ An appeal to the tax appeal court is properly commenced by the filing, by the taxpayer, or the county, or the [tax assessor,] director of taxation, of a written notice of appeal in the office of the tax appeal court within thirty days after the filing of the decision of the state board of review, or equivalent county administrative body, and, in the case of any appealing taxpayer, the payment of the costs of court in the amount fixed by section 232-22[-. The taxpayer shall also file a copy of the notice of appeal in the assessor’s office and, in case of an appeal from a decision involving a county as a party, with the county clerk. If an appeal is taken by a county, a copy of the notice of appeal shall be filed in the assessor’s office and a copy shall be served upon the taxpayer or taxpayers concerned.], and service of the notice of appeal on the director of taxation and, in the case of an appeal from a decision involving the county as a party, the real property assessment division of the county involved. A notice of appeal shall be sufficient if it states that the taxpayer, county, or [assessor] director of taxation appeals from the decision of the state board of review, or equivalent county administrative body, to the tax appeal court and may be amended at any time. The appeal shall bring up for determination all questions of fact and all questions of law, including constitutional questions involved in the appeal.

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

An appeal shall be deemed to have been taken in time, and properly commenced, if the notice thereof and costs, if any, and the copy or copies of the notice shall have been deposited in the mail, postage prepaid, properly addressed to the tax appeal court, [tax assessor,] director of taxation, taxpayer or taxpayers, [and county,] and, if relevant, the real property assessment division of the county involved, respectively, within the time period provided by this section.”

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

SECTION 4. This Act shall take effect upon its approval and shall apply to any notice of appeal filed after the effective date of this Act.

(Approved June 8, 2007.)

**ACT 155**

H.B. NO. 1334

A Bill for an Act Relating to Professional and Vocational Licensing Fees.

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

SECTION 1. Section 92-28, Hawaii Revised Statutes, is amended to read as follows:

**“§92-28 State service fees; increase or decrease of.** Any law to the contrary notwithstanding, the fees or other nontax revenues assessed or charged by any board, commission, or other governmental agency may be increased or decreased by the body in an amount not to exceed fifty per cent of the statutorily assessed fee or nontax revenue, in order to maintain a reasonable relation between

the revenues derived from such fee or nontax revenue and the cost or value of services rendered, comparability among fees imposed by the State, or any other purpose which it may deem necessary and reasonable; provided that:

- (1) The authority to increase or decrease fees or nontax revenues shall be subject to the approval of the governor and extend only to the following: chapters 36, 92, 94, 142, 144, 145, 147, 150, 171, 188, 189, 231, 269, 271, 321, 338, 373, 412, 414, 414D, 415A, 417E, 419, 421, 421C, 421H, 421I, 425, 425E, 428, 431, 436E, 437, 437B, 438, 439, 440, 441, 442, 443B, 444, 447, 448, 448E, 448F, 448H, 451A, 451J, 452, 453, 453D, 454, 455, 456, 457, 457A, 457B, 457G, 458, 459, 460, 460J, 461, 461J, 462A, 463, 463E, 464, 465, 466, 466K, 467, 467E, 468E, 468L, 468M, 469, 471, 482, 482E, 484, 485, 501, 502, 505, 514A, 514B, 514E, 572, 574, and 846 (part II);
- (2) The authority to increase or decrease fees or nontax revenues under the chapters listed in paragraph (1) that are established by the department of commerce and consumer affairs shall apply to fees or nontax revenues established by statute or rule;
- (3) The authority to increase or decrease fees or nontax revenues established by the University of Hawaii under chapter 304A shall be subject to the approval of the board of regents; provided that the board's approval of any increase or decrease in tuition for regular credit courses shall be preceded by an open public meeting held during or prior to the semester preceding the semester to which the tuition applies;
- (4) This section shall not apply to judicial fees as may be set by any chapter cited in this section;
- (5) The authority to increase or decrease fees or nontax revenues pursuant to this section shall be exempt from the public notice and public hearing requirements of chapter 91; and
- (6) Fees for copies of proposed and final rules and public notices of proposed rulemaking actions under chapter 91 shall not exceed 10 cents a page, as required by section 91-2.5.''

SECTION 2. Section 92-28, Hawaii Revised Statutes, is amended to read as follows:

**“§92-28 State service fees; increase or decrease of.** Any law to the contrary notwithstanding, the fees or other nontax revenues assessed or charged by any board, commission, or other governmental agency may be increased or decreased by the body in an amount not to exceed fifty per cent of the statutorily assessed fee or nontax revenue, to maintain a reasonable relation between the revenues derived from such fee or nontax revenue and the cost or value of services rendered, comparability among fees imposed by the State, or any other purpose which it may deem necessary and reasonable; provided that:

- (1) The authority to increase or decrease fees or nontax revenues shall be subject to the approval of the governor and extend only to the following: chapters 36, 92, 94, 142, 144, 145, 147, 150, 171, 188, 189, 231, 269, 271, 321, 338, 373, 412, 414, 414D, 415A, 417E, 419, 421, 421C, 421H, 421I, 425, 425E, 428, 431, 436E, 437, 437B, 438, 439, 440, 441, 442, 443B, 444, 447, 448, 448E, 448F, 448H, 451A, 451J, 452, 453, 453D, 454, 455, 456, 457, 457A, 457B, 457G, 458, 459, 460, 460J, 461, 461J, 462A, 463, 463E, 464, 465, 466, 466K, 467, 467E, 468E, 468L, 468M, 469, 471, 482, 482E, 484, 485A, 501, 502, 505, 514A, 514B, 514E, 572, 574, and 846 (part II);

**ACT 156**

- (2) The authority to increase or decrease fees or nontax revenues under the chapters listed in paragraph (1) that are established by the department of commerce and consumer affairs shall apply to fees or nontax revenues established by statute or rule;
- (3) The authority to increase or decrease fees or nontax revenues established by the University of Hawaii under chapter 304A shall be subject to the approval of the board of regents; provided that the board's approval of any increase or decrease in tuition for regular credit courses shall be preceded by an open public meeting held during or prior to the semester preceding the semester to which the tuition applies;
- (4) This section shall not apply to judicial fees as may be set by any chapter cited in this section;
- (5) The authority to increase or decrease fees or nontax revenues pursuant to this section shall be exempt from the public notice and public hearing requirements of chapter 91; and
- (6) Fees for copies of proposed and final rules and public notices of proposed rulemaking actions under chapter 91 shall not exceed 10 cents a page, as required by section 91-2.5."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2007; provided that section 2 shall take effect on July 1, 2008.

(Approved June 8, 2007.)

**ACT 156**

H.B. NO. 1435

A Bill for an Act Relating to the State of Hawaii Endowment Fund.

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

SECTION 1. Act 97, Session Laws of Hawaii 2006, is amended by amending section 2 to read as follows:

“SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,000,000 or so much thereof as may be necessary for fiscal year 2006-2007 to be deposited into the State of Hawaii endowment fund, from which the income and capital gains shall be used for the production of music by an Oahu-based symphony orchestra; provided that the funds appropriated in this section are matched, dollar-for-dollar, by private funds[-] or pledges pursuant to section 40-88, Hawaii Revised Statutes. Any unexpended or unencumbered balances from the appropriation shall lapse on June 30, 2009.

The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act.”

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

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

(Approved June 8, 2007.)

## ACT 157

H.B. NO. 1787

A Bill for an Act Relating to Energy Resources.

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

SECTION 1. Section 196-11, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Commissioning” means a quality-oriented process, which takes place during design and construction, for achieving, verifying, and documenting that the performance of facilities, systems, and assemblies meets defined objectives and criteria with regards to energy conservation design strategies and the energy performance of buildings.

“Retro-commissioning” means a quality-oriented process, which takes place after systems have been placed in operation, for achieving, verifying, and documenting that the performance of facilities, systems, and assemblies perform as closely as possible to defined performance criteria, with regards to energy conservation design strategies and the energy performance of buildings.”<sup>1</sup>

SECTION 2. Section 196-11, Hawaii Revised Statutes, is amended by amending the definition of “energy-savings performance contract” to read as follows:

“[“Energy savings] “Energy performance contract” [means an agreement for the provision of energy services and equipment, including building energy conservation enhancing retrofits and alternate energy technologies, in which a private sector person or company agrees to finance, design, construct, install, maintain, operate, or manage energy systems or equipment to improve the energy efficiency of, or produce energy in connection with, a facility in exchange for a portion of the cost savings, lease payments, or specified revenues including utility rebates and any other available incentives, and the level of payments is made contingent upon the verified energy savings, energy production, avoided maintenance, avoided energy equipment replacement, or any combination of the foregoing bases.] shall have the same meaning as in section 36-41(d), and shall additionally include commissioning and retro-commissioning.”

SECTION 3. Section 196-21, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Notwithstanding any law to the contrary relating to the award of public contracts, any agency desiring to enter into an [energy-savings] energy performance contract shall do so in accordance with the following provisions:

- (1) The agency shall issue a public request for proposals, advertised in the same manner as provided in chapter 103D, concerning the provision of energy-efficiency services or the design, installation, operation, and maintenance of energy equipment. The request for proposals shall contain terms and conditions relating to submission of proposals, evaluation, and selection of proposals, financial terms, legal responsibilities, and other matters as may be required by law and as the agency determines appropriate;
- (2) Upon receiving responses to the request for proposals, the agency shall select the most qualified proposal or proposals and may base its determination on the basis of the experience and qualifications of the proposers, the technical approach, the financial arrangements, the over-

- all benefits to the agency, or other factors determined by the agency to be relevant and appropriate;
- (3) The agency thereafter may negotiate and enter into an [energy-savings] energy performance contract with the person or company whose proposal is selected as the most qualified based on the criteria established by the agency;
  - (4) The term of any [energy-savings] energy performance contract entered into pursuant to this section shall not exceed [fifteen] twenty years;
  - (5) Any [energy-savings] energy performance contract may provide that the agency ultimately shall receive title to the energy system being financed under the contract; and
  - (6) Any [energy-savings] energy performance contract shall provide that total payments shall not exceed total savings.”

SECTION 4. Section 196-22, Hawaii Revised Statutes, is amended to read as follows:

“**§196-22 State energy projects.** State energy projects may be implemented under this chapter with the approval of the comptroller and the director of finance~~[- Notwithstanding section 36-41 or 196-21, the comptroller or the senior agency official of the department of accounting and general services, along with the director of finance, may exempt a state energy project from the advertising and competitive bidding requirements of section 36-41 or 196-21 and chapter 103, if the comptroller deems exemption appropriate for energy projects with proprietary technology or necessary to meet the goals of the legislature.]~~ or their designees. In addition, this section shall be construed to provide the greatest possible flexibility to agencies in structuring agreements so that economic benefits and existing energy incentives may be used and maximized, and financing and other costs to agencies may be minimized. The specific terms of [energy-savings] energy performance contracting under section 36-41 may be altered if deemed advantageous to the agency and approved by the director of finance and the [senior agency official.] comptroller.”

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

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

(Approved June 8, 2007.)

**Note**

1. Definitions should be underscored.

**ACT 158**

H.B. NO. 260

A Bill for an Act Relating to Appraisals of Resource Value Lands.

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

SECTION 1. Chapter 173A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§173A- Appraisal of land.** (a) Notwithstanding section 171-30, the appraisal of land having value as a resource to the State and acquired by the State under this chapter may be performed as follows:

- (1) The board may review, approve, and accept any existing appraisal prepared on behalf of a nonprofit organization if:
  - (A) The appraisal was completed within one year before the decision by the board to approve the acquisition of land; and
  - (B) The board finds that the appraisal was performed according to applicable and accepted professional standards for land appraisal; or
- (2) The board may contract for an independent appraisal from no more than three disinterested appraisers who shall follow applicable and accepted professional standards for land appraisal.

The board shall submit the appraisal to the attorney general for review and approval before it acquires the land having value as a resource to the State.

(b) No land shall be purchased for a sum greater than the highest value fixed by any appraisal accepted or performed under subsection (a); provided that this limitation shall not apply to any acquisition that is made by condemnation.

(c) After the land having value as a resource to the State has been acquired or the State abandons the acquisition, the appraisal reports shall be made available for inspection and copying by the public.

(d) Anything contained in this section notwithstanding, no appraisal shall be required under this section in the event that any interest in land having value as a resource to the State is donated to the State.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 8, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 159**

S.B. NO. 1943

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 dependence on petroleum for about ninety per cent of its energy needs is more than any other state in the nation. This makes the state extremely vulnerable to oil embargos, supply disruptions, international market dysfunctions, and many other factors beyond the control of the state. Furthermore, the continued consumption of conventional petroleum fuel negatively impacts the environment. At the same time, Hawaii has some of the most abundant renewable energy resources in the world, in the form of solar, geothermal, wind, biomass, and ocean energy assets.

The legislature also finds that increased energy efficiency and use of renewable energy resources would increase Hawaii’s energy self-sufficiency, achieving broad societal benefits, including increased energy security, reduced impact of increases in oil prices, environmental sustainability, economic development, and job creation.

To shape Hawaii’s energy future and achieve the goal of energy self-sufficiency for the State of Hawaii, efforts must continue on all fronts, integrating new and evolving technologies, seizing upon economic opportunities to become

more energy efficient and economically diversified, and providing incentives and assistance to address barriers.

It is the intent of the legislature that Hawaii-based production of energy feedstock shall become a significant portion of the total feedstock intake for Hawaii biofuels processing facilities.

The purpose of this Act is to encourage further production and use of biofuels in Hawaii by:

- (1) Establishing biofuel processing facilities as a permitted use in designated agricultural districts under chapter 205, Hawaii Revised Statutes; and
- (2) Establishing an energy feedstock program within the department of agriculture to encourage the production of energy feedstock in Hawaii and establish milestones and objectives for energy feedstock to be grown in the state to meet Hawaii's energy requirements.

PART I. BIOFUEL PROCESSING FACILITIES

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

“(d) Agricultural districts shall include:

- (1) Activities or uses as characterized by the cultivation of crops, crops for bioenergy, orchards, forage, and forestry;
- (2) Farming activities or uses related to animal husbandry, and game and fish propagation;
- (3) Aquaculture, which means the production of aquatic plant and animal life within ponds and other bodies of water;
- (4) Wind generated energy production for public, private, and commercial use;
- (5) Biofuel production as described in section 205-4.5(a)(15) for public, private, and commercial use;
- [(5)] (6) Bona fide agricultural services and uses that support the agricultural activities of the fee or leasehold owner of the property and accessory to any of the above activities, whether or not conducted on the same premises as the agricultural activities to which they are accessory, including but not limited to farm dwellings as defined in section 205-4.5(a)(4), employee housing, farm buildings, mills, storage facilities, processing facilities, vehicle and equipment storage areas, roadside stands for the sale of products grown on the premises, and plantation community subdivisions as defined in section 205-4.5(a)(12);
- [(6)] (7) Wind machines and wind farms;
- [(7)] (8) Small-scale meteorological, air quality, noise, and other scientific and environmental data collection and monitoring facilities occupying less than one-half acre of land; provided that these facilities shall not be used as or equipped for use as living quarters or dwellings;
- [(8)] (9) Agricultural parks;
- [(9)] (10) Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5; and
- [(10)] (11) Open area recreational facilities.

Agricultural districts shall not include golf courses and golf driving ranges, except as provided in section 205-4.5(d). Agricultural districts include areas that are not used for, or that are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics.”

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

“(a) Within the agricultural district, all lands with soil classified by the land study bureau’s detailed land classification as overall (master) productivity rating class A or B shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including but not limited to crops for bioenergy, flowers, vegetables, foliage, fruits, forage, and timber;
  - (2) Game and fish propagation;
  - (3) Raising of livestock, including but not limited to poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;
  - (4) Farm dwellings, employee housing, farm buildings, or activities or uses related to farming and animal husbandry. “Farm dwelling”, as used in this paragraph, means a single-family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling;
  - (5) Public institutions and buildings that are necessary for agricultural practices;
  - (6) Public and private open area types of recreational uses, including day camps, picnic grounds, parks, and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
  - (7) Public, private, and quasi-public utility lines and roadways, transformer stations, communications equipment buildings, solid waste transfer stations, major water storage tanks, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants, corporation yards, or other similar structures;
  - (8) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest;
  - (9) Roadside stands for the sale of agricultural products grown on the premises;
  - (10) Buildings and uses, including but not limited to mills, storage, and processing facilities, maintenance facilities, and vehicle and equipment storage areas that are normally considered directly accessory to the above mentioned uses and are permitted under section 205-2(d);
  - (11) Agricultural parks;
  - (12) Plantation community subdivisions, which as used in this paragraph means a subdivision or cluster of employee housing, community buildings, and acreage established on land currently or formerly owned, leased, or operated by a sugar or pineapple plantation and in residential use by employees or former employees of the plantation; provided that the employees or former employees shall have a property interest in the land;
- ⊠(13)⊠ Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or

involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5; [or

(14) Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that [such] the wind energy facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land[-]; or

(15) Biofuel processing facilities, including the appurtenances associated with the production and refining of biofuels that is normally considered directly accessory and secondary to the growing of the energy feedstock; provided that biofuels processing facilities and appurtenances do not adversely impact agricultural land and other agricultural uses in the vicinity.

For the purposes of this paragraph:

“Appurtenances” means operational infrastructure of the appropriate type and scale for economic commercial storage and distribution, and other similar handling of feedstock, fuels, and other products of biofuels processing facilities.

“Biofuel processing facility” means a facility that produces liquid or gaseous fuels from organic sources such as biomass crops, agricultural residues, and oil crops, including palm, canola, soybean, and waste cooking oils; grease; food wastes; and animal residues and wastes that can be used to generate energy.”

PART II. ENERGY FEEDSTOCK PRODUCTION

SECTION 4. The legislature finds that there is considerable interest in producing biofuels in Hawaii to meet alternative energy mandates. Current law requires a ten per cent ethanol content for gasoline. The demand for biofuel production in Hawaii is steadily increasing, which has been the catalyst for the creation of private entities to produce biofuels in this State. However, there is a lack of feedstock in Hawaii to produce biofuels, which means that private entities must import feedstock. Because of the state’s remoteness, it is imperative for the state to be energy self-sufficient. Feedstock is necessary to produce biofuels in order to attain energy self-sufficiency. There are many crops that can grow in tropical environments that may be ideal feedstock for bioenergy production.

The purpose of this part is to develop an energy feedstock program within the department of agriculture to encourage the production of energy feedstock in Hawaii and establish milestones and objectives for energy feedstock to be grown in the state to meet its energy requirements.

SECTION 5. Chapter 141, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§141- Energy feedstock program. (a) There is established within the department of agriculture an energy feedstock program that shall:

- (1) Maintain cognizance of actions taken by industry and by federal, state, county, and private agencies in activities relating to the production of energy feedstock, and promote and support worthwhile energy feedstock production activities in the state;

- (2) Serve as an information clearinghouse for energy feedstock production activities;
- (3) Coordinate development projects to investigate and solve biological and technical problems involved in raising selected species with commercial energy generating potential;
- (4) Actively seek federal funding for energy feedstock production activities;
- (5) Undertake activities required to develop and expand the energy feedstock production industry; and
- (6) Perform other functions and activities as may be assigned by law, including monitoring the compliance provisions under section 205-4.5(a)(15).

(b) The chairperson of the board of agriculture shall consult and coordinate with the energy resources coordinator under chapter 196 to establish milestones and objectives for the production of energy feedstock that is grown in the State. The chairperson and the coordinator shall report the state’s progress toward meeting such milestones and objectives annually to the legislature.

(c) The chairperson of the board of agriculture shall also consult and coordinate with research programs and activities at the University of Hawaii that will assist in the further growth and promotion of the energy feedstock production industry in Hawaii.

(d) The chairperson of the board of agriculture may employ temporary staff exempt from chapters 76 and 89. The board may adopt rules pursuant to chapter 91 to effectuate the purposes of this section.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

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

(Approved June 8, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 160**

H.B. NO. 1902

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 under this Act is in the public interest and for the public health, safety, and general welfare.

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 a total amount not to exceed \$400,000,000, in one or more series:

- (1) \$260,000,000 of which shall be for the purpose of assisting Hawaiian Electric Company, Inc.;
- (2) \$25,000,000 of which shall be for the purpose of assisting Maui Electric Company, Limited; and

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- (3) \$115,000,000 of which shall be for the purpose of assisting Hawaii Electric Light Company, Inc.;

all Hawaii corporations, to continue multi-project capital improvement programs, including the acquisition of land, facilities used to produce electricity (including one new generating unit on the island of Oahu that is planned to run on one hundred per cent biofuel but is also capable of burning fossil fuel, and one new heat recovery steam generator on the island of Hawaii that will run off of waste heat and be part of a dual train combined-cycle unit with two existing fossil fuel units), transmission and distribution facilities, and other electric systems and facilities, or any combination thereof; provided that public utilities commission approval shall be required for any project financed by the issuance of special purpose revenue bonds under this Act.

The legislature hereby finds and determines that the capital improvement programs by Hawaiian Electric Company, Inc., Maui Electric Company, Limited, and Hawaii Electric Light Company, Inc., constitute energy projects as defined in part VI, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to utilities serving the general public in providing electric energy.

SECTION 3. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2012, to issue 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 to refund 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 or whether 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 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 to assist utilities serving the general public in providing electric energy.

SECTION 5. The authorization to issue special purpose revenue bonds under section 2 of this Act shall lapse on June 30, 2012.

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved June 8, 2007.)

**ACT 161**

S.B. NO. 1154

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 304A, Hawaii Revised Statutes, is amended by adding a new subpart to part VI to be appropriately designated and to read as follows:

## “ . University Projects and Purposes

**§304A-A Definitions and interpretations.** Whenever used in this subpart:

“Appropriation” means moneys appropriated or allocated by the legislature to the board, the university, any university project, any university system, any network, or any combination thereof, from any revolving or special fund that consists of rates, rentals, and charges, or user taxes, which is permitted to be expended for the cost of construction, cost of maintenance, debt service on revenue bonds, or any combination thereof.

“Board” or “board of regents” means the board of regents of the University of Hawaii, which is hereby declared to be a public corporation.

“Construction” or “construct” includes acquisition, purchase, planning, construction, reconstruction, remodeling, renovation, improvement, betterment, and extension.

“Cost of construction” includes all costs and estimated costs related to construction, including but not limited to:

- (1) All costs and estimated costs of the preparation and issuance of revenue bonds and the obtaining of a loan;
- (2) Costs of land acquisition;
- (3) All costs and estimated costs related to construction of a university project, university system, network, or any combination thereof, including engineering, architectural, supervisory, inspection, fiscal, administrative, travel, and clerical fees, costs, and expenses;
- (4) Interest estimated to accrue during the construction period and for six months thereafter on money obtained by loan or through the issuance of revenue bonds;
- (5) Moneys necessary to establish or increase reserves;
- (6) Costs of utilities, equipment, fixtures, and apparatus necessary or convenient for the use and occupancy of the university project, university system, or network or any combination thereof; and
- (7) The initial furnishings of the university project, university system, or network, or any combination thereof in the determination of the board.

“Cost of maintenance” includes all costs or estimated costs of the maintenance of a university project, university system, or network or any combination thereof; including but not limited to salaries, wages, and fees of officers, employees, and contractors of the board engaged in the maintenance of a university project, university system, or network or any combination thereof, the cost of all supplies and equipment, and all operational and administrative expenses.

“CUSIP” means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

“Maintenance” or “maintain” includes repairs, upkeep, replacement, renewals, maintenance, operation, and administration.

“Network” means two or more university projects, university systems, or university projects and university systems that, at the election of the board, are combined into a single network. A network may include various university projects in any one or more of the areas under the jurisdiction of the board.

“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 subpart.

“Revenue bonds” means revenue bonds, interim certificates, commercial paper, notes, debentures, or other evidence of indebtedness of the board authorized by or issued under this subpart.

“Revenue of the university” means all income, receipts, revenue, and moneys of whatever nature received by the university, or that it is entitled to receive, from its ownership or operation and management of the university, including any appropriation, other than general appropriations or gifts the terms of which preclude their being used for payment of the cost of construction or cost of maintenance of a university project, a university system, or a network or any combination thereof.

“University” means the University of Hawaii, every community college established and governed by the board under this chapter, and any and every other educational institution under the jurisdiction of the board.

“University project” means any undertaking or improvement that is constructed or maintained by the university in furtherance of a university purpose. A university project includes, but is not limited to, land, fixtures, appurtenances, improvements, utilities, equipment, and furnishings necessary or convenient for the use and occupancy of a university project for the purposes for which it was constructed or is used.

“University system” means two or more university projects from which the university generates revenue of the university, other than appropriations, operated and maintained jointly as a system.

**§304A-B Powers of the board.** Notwithstanding any law to the contrary, the board may:

- (1) Designate as a university project, any undertaking, improvement, or facility on any one or more of the areas in one or more of the educational institutions under the jurisdiction of the board;
- (2) Construct and maintain university projects, including a university project included or to be in a university system;
- (3) Combine two or more university projects into a university system on one or more of the areas on any one or more of the educational institutions under the jurisdiction of the board, and to maintain the system;
- (4) Combine two or more university projects, university systems, or university projects and university systems into a network, on any one or more of the areas on any one or more of the educational institutions under the jurisdiction of the board, and to maintain the network;
- (5) Prescribe and collect rents, fees, and charges for the use of or services furnished by any university project and the facilities thereof, and pledge any appropriation to any university project and the facilities thereof that in aggregate, produces revenue of the university at least sufficient to comply with section 304A-K;
- (6) With the approval of the governor, issue revenue bonds under this subpart in such principal amount as may be authorized by the legislature from time to time to finance in whole or in part the cost of construction or the cost of maintenance of any university project, including funding reserves therefor;
- (7) Pledge to the punctual payment of revenue bonds and interest thereon, all or any part of the revenue of the university, including any appropriation, in an amount sufficient to pay the revenue bonds and interest as the same become due and to create and maintain reasonable reserves therefor;
- (8) Establish a loan program or a commercial paper program upon terms and conditions that the board may determine; and
- (9) Advance moneys of the university, not otherwise required, and do any and all other lawful acts as may be necessary, convenient, or desirable, for carrying into execution and administering this subpart.

**§304A-C Designation and authorization of university projects, university systems, networks; authorization of revenue bonds.** The designation and authorization of construction and maintenance of a university project, university system, or network, and the authorization for issuance of revenue bonds under this subpart shall be by resolution of the board by a majority of all the members of the board then in office. Any resolution may be adopted at the same meeting at which it is introduced and shall take effect immediately upon adoption.

**§304A-D Revenue bonds; details, sale, legal investment.** (a) Revenue bonds:

- (1) Shall be issued in the name of the board;
- (2) May bear interest at a rate payable at such time or times;
- (3) May be issued in one or more series;
- (4) May be in a denomination or denominations;
- (5) May bear a date or dates;
- (6) May mature at such time not exceeding fifty years from their respective dates;
- (7) May be payable in a medium of payment and at a place within or without the State;
- (8) May carry registration privileges;
- (9) May be subject to terms and conditions of redemption or to tenders for purchase or to purchase prior to the stated maturity, at the option of the board or the holder;
- (10) May contain terms, covenants, and conditions; and
- (11) May be in any form and printed in any manner, including typewritten;

as the resolution authorizing the issuance of the revenue bonds may provide.

(b) The board may acquire policies of insurance and enter into banking arrangements upon any terms and conditions that the board deems appropriate, at the time of delivery of an issue of revenue bonds or at a later date that the board deems in the best interest of the university, including but not limited to contracting for a support facility under section 304A-E, and contracting for interest rate swaps, swapations, interest rate floors, and other similar contracts to hedge or reduce the amount or duration of payment, rate, spread, or similar risk or to reduce the cost of borrowing when used in conjunction with revenue bonds issued pursuant to this subpart.

(c) The board may make appropriate arrangements for the sale of each issue of revenue bonds or part thereof as are issued pursuant to this subpart, including but not limited to arranging for the preparation and printing of the revenue bonds, the official statement, and any other documents or instruments deemed required for the issuance and sale of revenue bonds and retaining financial, accounting, and legal consultants, all upon terms and conditions as the board deems advisable and in the best interest of the State and the university. The board may offer the revenue bonds at competitive sale or may negotiate the sale of the revenue bonds to any person or group of persons, to the United States of America, or any board, agency, instrumentality, or corporation thereof, to the employees' retirement system of the State, to any political subdivision of the State, or to any board, agency, instrumentality, public corporation, or other governmental organization of the State or of any political subdivision of the State.

The sale of the revenue bonds by the board by negotiation shall be at the price and upon the terms and conditions, and the revenue bonds shall bear interest at the rate or varying rates determined from time to time in the manner, as approved by the board.

The sale of the revenue bonds by the board at competitive sale shall be at the price and upon terms and conditions, and the revenue bonds shall bear interest at the

rate or rates or varying rates determined from time to time in the manner as specified by the successful bidder. The revenue bonds shall be sold in the manner provided in section 39-55.

(d) The board may delegate the responsibility for the sale and the fixing of the terms and details of revenue bonds and such other determinations or actions, as may be provided by resolution of the board, to the chairman, the president, or another designated officer.

(e) The purpose of this subsection is to authorize any person, firm, corporation, association, political subdivision, body, or officer, public or private, to use any funds owned or controlled by them, including sinking, insurance, investment, retirement, compensation, pension, trust funds, and funds held on deposit, for the purchase of any revenue bonds issued under this subpart. All public officers and bodies of the State, all political subdivisions, all insurance companies and associations, all banks, savings banks, and savings institutions, including building or savings and loan associations, all credit unions, all trust companies, all personal representatives, guardians, trustees, and all other persons and fiduciaries in the State who are regulated by law as to the character of their investment, may legally invest funds within their control and available for investment in revenue bonds issued under this subpart.

**§304A-E Support facility for variable rate revenue bonds.** If revenue bonds issued pursuant to this subpart are issued bearing interest at a rate that varies from time to time or with a right of holders to tender the revenue bonds for purchase, or both, the board may contract for the support facility and remarketing arrangements as are required to market the revenue bonds to the greatest advantage of the board and the university upon terms and conditions that the board deems necessary and proper.

The board may enter into contracts or agreements with the entity providing a support facility; provided that any contract or agreement shall provide that any amount due and owing by the board under the contract or agreement on an annual basis shall be payable from the revenue of the university; provided further that any obligation issued or arising pursuant to the terms of the contract or agreement in the form of revenue bonds, notes, or other evidences of indebtedness shall only arise at such time as:

- (1) Moneys or securities have been irrevocably set aside for the full payment of a like principal amount of revenue bonds issued pursuant to this subpart; or
- (2) A like principal amount of the issue or series of revenue bonds to which the support facility relates are held in escrow by the entity or entities providing the support facility.

**§304A-F CUSIP identification numbers.** The board may provide that CUSIP identification numbers shall be printed on revenue bonds issued under this subpart. If numbers are printed on any such revenue bonds:

- (1) No number shall constitute a part of the contract evidenced by the particular revenue bond upon which it is printed; 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 revenue bonds, by reason of the numbers or any use made thereof, including any use thereof made by the board or any officer or agent thereof, the State, any officer or agent thereof, or by reason of any inaccuracy, error, or omission.

The board may require that all costs of obtaining and printing the CUSIP identification numbers shall be paid by the purchaser of the revenue bonds.

**§304A-G Covenants in resolution authorizing revenue bonds.** Any resolution authorizing the issuance of revenue bonds under this subpart may contain covenants as to:

- (1) The purpose to which the proceeds of the sale of the revenue bonds may be applied; the use and disposition of the proceeds; the investment thereof pending the use and disposition; and the use and disposition of the income from the investment;
- (2) The use and disposition of the revenue of the university pledged to the payment of the revenue bonds, including the creation and maintenance of reserves; the investment of the revenues and of the moneys in the reserves; and the use and disposition of the income from the investments;
- (3) The minimum amount of revenue of the university to be produced by the university project, university system, or network or any combination thereof over and above the amount required to be produced by section 304A-K;
- (4) The use and disposition of the proceeds of the sale of any university project, university system, or network or any part thereof;
- (5) The construction or maintenance of any university project, university system, or network or any combination thereof for the construction or maintenance of which revenue bonds are issued, or any university system or network in which university projects constructed or maintained are later included;
- (6) The issuance of other or additional revenue bonds and the revenue of the university from which additional revenue bonds shall be payable;
- (7) The maintenance of the university projects, university system, or network or any combination thereof, including the creation by the board of supervisory positions, which shall not be subject to chapter 76, as are necessary to facilitate the issuance of revenue bonds to ensure the adequacy of revenue of the university;
- (8) The insurance on a university project, university system, or network or any combination thereof, 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 resolution may be subsequently amended or modified by the board with or without the consent of the holders of revenue bonds or any proportion of the holders, or any trustee thereof; and
- (11) The terms and conditions upon which the holders of revenue bonds, 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, and the receiver may enter and take possession of the university project, university system, or network; maintain them; prescribe rents, fees, and charges; and collect, receive, and apply all revenue of the university thereafter arising therefrom in the same manner as the board itself may do; provided that the receiver shall have no power to mandate appropriations, or to use, or permit the use of, any university project, university system, or network or any combination thereof, other than in a manner consistent with and in furtherance of the purposes of the university.

This subpart and any resolution shall be deemed a contract with the holders of revenue bonds issued under this subpart. The duties of the board and any resolution shall be enforceable by any bondholder by mandamus or other appropriate suit, action, or proceeding in any court of competent jurisdiction.

**§304A-H Execution and validity of revenue bonds.** Revenue bonds issued under this subpart shall bear the manual signatures or facsimile of the signatures of the chairperson and secretary of the board, and shall be sealed with the seal of the board or in lieu thereof shall bear a facsimile of seal. If the board designates a registrar other than itself for the revenue bonds, the resolution authorizing the revenue bonds may provide that none of the revenue bonds shall be valid or obligatory for any purpose unless authenticated by the registrar. If the resolution provides, all signatures of the board upon the revenue bonds may be facsimiles of the signatures, and the revenue bonds shall be valid and obligatory only if authenticated by the manual signature of an authorized officer or signatory of the registrar. Revenue bonds bearing the signature of officers in office at the date of the signing thereof shall be valid 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 depend on or be affected by the validity or regularity of any proceedings relating to the construction or maintenance of the university project, university system, or network for which the revenue 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 subpart, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

**§304A-I Pledge of revenue of the university.** The resolution authorizing the issuance of revenue bonds may pledge to the payment thereof all or any part of the revenue of the university, and the pledge shall constitute a lien on revenue of the university to the extent and in the manner provided in the resolution prior and paramount to any claim or other obligation of any nature against the revenue of the university so pledged subsequently arising or incurred. The board may provide in the resolution that all revenue bonds of the same issue 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 revenue of the university contained in any resolution adopted under this subpart shall be valid from and after the adoption of the resolution without physical delivery of the revenue of the university pledged or the necessity of any further action by the State or the board, or any officer or agent of the State or the board.

**§304A-J Payment and security of revenue bonds; revenue bonds not a debt of the State.** Revenue bonds issued under this subpart shall be payable from and secured by the revenue of the university pledged to the payment thereof, and the revenue of the university shall be applied to the payment in accordance with this subpart and the resolution authorizing the issuance of the revenue bonds. The university, or any university project, university system, or network shall constitute a public undertaking, improvement, or system, and any appropriation shall constitute revenue of the university under the constitution and laws of the State. No holder of any revenue bonds issued under this subpart may compel any exercise of the taxing power of the State or the making of any appropriation to pay the revenue bonds, or interest thereon. Each revenue bond shall recite in substance that the revenue bond, including interest thereon, is payable from and secured by the revenue of the university pledged to the payment thereof, and that the revenue bond does not constitute a general or moral obligation or indebtedness of the State within the meaning of any law.

**§304A-K Imposition of rates, rents, fees, and charges; pledge, allocation of appropriation.** (a) The board shall impose and collect rates, rents, fees, and charges for the use or enjoyment and services of the facilities of each university

project, and shall revise rates, rents, fees, and charges whenever necessary, or allocate all or any portion of appropriation for each university project, so that, in aggregate, the revenue of the university with respect to all university projects, university systems, or networks shall produce revenue of the university at least sufficient:

- (1) To pay the cost of maintenance of all university projects, university systems, or networks or any combination thereof, including reserves therefor;
- (2) To pay when due all revenue bonds and interest thereon, for the payment of which all or any part of the revenue of the university is or has been pledged, charged, or otherwise encumbered, including reserves therefor;
- (3) To reimburse the general fund of the State for principal and interest on general obligation bonds issued for university projects, university systems, or networks or any combination thereof, or to refund general obligation bonds, to the extent required by law; and
- (4) To carry out all covenants and provisions of the resolution authorizing the issuance of revenue bonds.

(b) Nothing in this subpart shall preclude the making of appropriations to the university or board, including any appropriation, or 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 cost of construction or maintenance of any or all university projects, university systems, or networks.

**§304A-L Revenue bond anticipation notes.** In anticipation of the issuance under this subpart of revenue bonds and of the receipt of the proceeds of sale of revenue bonds, the board may issue and sell, without further authorization or approval, bond anticipation notes for the purposes for which the revenue bonds have been authorized, the maximum principal amount of which notes shall not exceed the authorized principal amount of the revenue bonds. The notes shall be payable from and secured by the proceeds of the sale of the bonds in anticipation of which the notes are issued, or the revenues of the university from which would be payable and by which the revenue bonds would be secured, or any combination thereof; provided that to the extent the principal of the notes is paid from moneys other than the proceeds of sale of the revenue bonds, the maximum amount of revenue bonds in anticipation of which the notes are issued that has been authorized shall be reduced by the amount of the notes paid in such manner. The issuance of the notes and the details thereof shall be governed by this subpart with respect to revenue bonds insofar as applicable; provided that:

- (1) Each note, together with all renewals and extensions thereof, or refunds thereof 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.

**§304A-M University project, university system, networks, and revenue bonds exempt from taxation.** The revenue of the university and the property of any university project, university system, or network shall be exempt from all taxation and assessments by the State or any county or other political subdivision thereof. Revenue bonds issued under this subpart and all income therefrom shall be exempt from all taxation by the State or any county or other political subdivision thereof, except inheritance, transfer, and estate taxes.

**§304A-N Powers additional to other powers.** The powers conferred by this subpart shall be in addition and supplemental to the powers conferred by any other law concerning any university project, university system, or network or any combination thereof, or the issuance of revenue bonds. Revenue bonds may be issued pursuant to this subpart for those purposes notwithstanding that any other law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of a like undertaking or the establishment, maintenance, or extension of a like university project, university system, or network or any combination thereof, or the issuance of revenue bonds, without regard to the requirements, restrictions, limitations, or other provisions contained in any other law. Except as expressly provided in any other law, this subpart shall control.

**§304A-O Refunding revenue bonds; authorization and purpose.** (a) The board, without further authorization or approval of the legislature, but with the approval of the governor, 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 revenue bonds to be refunded may be called for redemption, any revenue bonds issued under this subpart, including any revenue bonds that the holders may consent to be paid or refunded even though the revenue bonds are not matured or are not callable or redeemable, and for the purpose of funding indebtedness not evidenced by revenue bonds but that was incurred for purposes for which revenue bonds may be issued pursuant to this subpart. The rate of interest borne by the refunding bonds shall not be affected or limited by the rate of interest borne by the revenue bonds to be refunded or the indebtedness to be funded.

All provisions of this subpart 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 304A-D, or the board may provide for the exchange of refunding bonds for a like principal amount of outstanding revenue bonds for the refunding of which the issuance of the 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.

(b) Refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all revenue bonds or indebtedness to be funded or refunded, and for the payment of all expenses paid or incurred in connection with the calling, redeeming, retiring, or paying of indebtedness or outstanding revenue bonds, and the issuance of refunding bonds. The expenses may include the amount necessary for the payment of interest upon the indebtedness to be funded or the revenue 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 revenue 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 any premium required to be paid to call or retire the revenue bonds.

**§304A-P Fiscal agents.** The director of finance of the State, when requested by the board, shall render full and complete assistance to the board in the preparation and sale of revenue bonds issued pursuant to this subpart. The director of finance shall be the fiscal agent of the board for the payment of all principal and interest, and for the transfer, of revenue bonds. Sections 36-3 and 39-12 shall apply to this subpart. The director of finance shall set up in the treasury of the State suitable accounts for:

- (1) Deposit of all revenues of university projects, university systems, or networks and for the payment of all revenue bonds and the interest thereon;
- (2) Deposit of all other payments provided or required by this subpart, or any resolution or resolutions of the board; and
- (3) Holding of all reserves created under this subpart, or pursuant to any resolution of the board.

**§304A-Q Validation of proceedings.** All proceedings taken with respect to the contracting of revenue bonded indebtedness and the issuance, sale, execution, and delivery of revenue bonds by the board are deemed validated, ratified, approved, and confirmed, notwithstanding any defects or irregularities in any proceedings or in the issuance, execution, sale, or delivery. The revenue bonds so issued or to be issued are and shall be valid obligations of the board.

**§304A-R Limitation of authority.** Notwithstanding any law to the contrary, nothing in this subpart shall be construed to authorize the board to incur any indebtedness contrary to the State Constitution or to incur any indebtedness that would be required to be included in the calculation of the total indebtedness of the State.

**§304A-S Annual report.** The University of Hawaii shall submit a report to the legislature, no later than twenty days prior to the convening of each regular session, of all revenue bonds issued pursuant to this subpart. The report shall provide a summary of all revenue bonds issued pursuant to this subpart during the preceding fiscal year.”

SECTION 2. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new section to part V, subpart C, to be appropriately designated and to read as follows:

**“§304A- University revenue-undertakings fund.** (a) There is established a special fund for the University of Hawaii to be known as the university revenue-undertakings fund into which all revenue of the university under subpart of part VI, including any appropriation allocated pursuant to this section received from, or related to, university projects, university systems, or networks or any combination thereof, constructed or maintained by the board under subpart of part VI shall be deposited. At the direction of the board, there may be established accounts in the university revenue-undertakings fund as required by the resolution authorizing revenue bonds.

If revenue bonds are issued under subpart of part VI payable from the revenue of a university parking facility or the revenue of a university system that includes a university parking facility, the board in the resolution authorizing revenue bonds may direct that all or any part of the moneys required by this chapter to be paid into the university parking revolving fund created by section 304A-2275 shall be deposited in the university revenue-undertakings fund in lieu of being deposited in the university parking revolving fund.

(b) All moneys in the university revenue-undertakings fund shall be applied in accordance with the resolution of the board authorizing the issuance of revenue bonds under subpart of part VI, as follows:

- (1) To provide for all costs of construction, operation, repair, and maintenance of a university project, university system, network, or any combination thereof, including reserves therefor;

- (2) To pay when due all revenue bonds and interest thereon, for the payment of which all or any part of the revenue of the university is or has been pledged, charged, or otherwise encumbered, including reserves therefor;
- (3) To reimburse the university for all moneys advanced to pay the expenses incurred in making the preparation for the initial issuance of revenue bonds under subpart of part VI;
- (4) To reimburse the general fund of the State for principal and interest on general obligation bonds issued for all university projects, university systems, networks, or any combination thereof, or issued to refund any of such general obligation bonds, to the extent required by law; and
- (5) To provide a reserve for betterments and improvements to and renewals and replacements of, university projects, university systems, networks, or any combination thereof.

If adequate provision is made for all the foregoing purposes, and if permitted by law and the covenants in the resolution authorizing the issuance of revenue bonds under subpart of part VI, any moneys remaining in the university revenue-undertakings fund at the end of a fiscal year may be expended by the board in subsequent years in furtherance of any of the purposes of the university.

(c) The following terms used in this section shall be as defined in section 304A-A: “appropriation”, “board”, “construction”, “cost of construction”, “cost of maintenance”, “maintenance”, “network”, “reserves”, “revenue bonds”, “revenue of the university”, “university project”, and “university system”.”

**SECTION 3.** Section 304A-2167, Hawaii Revised Statutes, is repealed.

**SECTION 4.** Chapter 304A, part VI, subpart A, Hawaii Revised Statutes, is repealed.

**SECTION 5.** On the effective date of this Act, all moneys deposited in the university revenue-undertakings fund established pursuant to section 304A-2167, Hawaii Revised Statutes, and any encumbrances thereon shall be transferred to the university revenue-undertakings fund established pursuant to section 2 of this Act.

**SECTION 6.** The board of regents of the University of Hawaii, with the approval of the governor, is authorized to issue revenue bonds from time to time to finance, in whole or in part, the costs of construction or the costs of maintenance of any university project, including reserves therefor as the board of regents may direct. The total principal amount of the revenue bonds authorized by this Act shall not exceed \$100,000,000; provided that neither revenue bonds issued to refund revenue bonds heretofore issued, to the extent that such refunding revenue bonds do not exceed the principal amount of the revenue bonds being refunded, nor revenue bonds of the board outstanding at the effective date of this Act shall cause the amount of the above authorization to be decreased. The revenue bonds shall be issued pursuant to the provisions of part VI of chapter 304A, Hawaii Revised Statutes. The principal and interest on the revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid solely from and secured solely by the revenue of the university as defined in section 304A-A, Hawaii Revised Statutes.

**SECTION 7.** There is appropriated out of the revenue bond proceeds authorized by this Act the sum of \$100,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 to carry out the purposes of section 6.

The sums appropriated shall be expended by the board of regents of the University of Hawaii.

SECTION 8. In codifying this Act, the revisor of statutes shall substitute appropriate section numbers for the section designations used in this Act.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect on July 1, 2007.

(Approved June 8, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 162**

S.B. NO. 1210

A Bill for an Act Relating to Health Care Facilities.

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

SECTION 1. Act 296, Session Laws of Hawaii 1999, is amended by amending section 2 to read as follows:

“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 in one or more series special purpose revenue bonds in a total amount not to exceed [~~\$80,000,000~~] \$160,000,000 for the purpose of assisting the Honolulu Neighborhood Housing Services, Inc., a Hawaii not-for-profit corporation, in planning, designing, and constructing a senior citizen lifecare retirement community.

The legislature finds and determines that the planning, designing, and construction of a senior citizen lifecare retirement community constitutes a project as defined in part II, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a not-for-profit corporation that provides health care facilities to the general public.”

SECTION 2. Act 296, Session Laws of Hawaii 1999, as amended by Act 165, Session Laws of Hawaii 2003, is amended by amending section 6 to read as follows:

“SECTION 6. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, [~~2008~~] 2011.”

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

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved June 8, 2007.)

A Bill for an Act Relating to Historical Preservation.

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

SECTION 1. The legislature finds that the story of Hawaii's World War II Japanese internees has remained largely unknown for many years. The passage of the Civil Liberties Act of 1988, and the subsequent search for former internees has led to an increased awareness of how Hawaii's internees fared, and the knowledge that many of the former internment camps have disappeared or will in the near future.

The legislature further finds that in January 2007, President Bush signed into law a bill that creates a \$38,000,000 grant program to help communities preserve the sites where Japanese Americans and Japanese nationals were incarcerated. Development of memorials will be eligible for fifty per cent federal matching funds administered by the National Park Service.

The purpose of this Act is to establish a process to determine the most appropriate means of memorializing the World War II Japanese internment camp experience in Hawaii.

SECTION 2. The department of land and natural resources, with the assistance of the Japanese Cultural Center of Hawaii, the Japanese American National Heritage Coalition, Historic Hawaii Foundation, and other organizations as may be appropriate, shall establish a process to determine the most appropriate means of memorializing the World War II Japanese internment camp experience in Hawaii.

In doing so, the department shall consider fully:

- (1) Any research, collections, and other information compiled by cultural and historical organizations or individuals;
- (2) Information on the size and current condition of the five known internment camps: Honouliuli Internment Camp and Sand Island on Oahu, Kilauea Military Camp on the Big Island, Haiku Internment Camp on Maui, and the Kalaheo Stockade on Kauai, and recommendations for preserving the camps, if feasible to do so;
- (3) Cost estimates for the establishment and ongoing operations of any World War II Japanese internment camp memorial projects and funding sources, including potential federal funds; and
- (4) Recommendations for long-term organizational management of any World War II Japanese internment camp memorial.

SECTION 3. The department shall report on its findings and recommendations no later than twenty days prior to the convening of the 2008 regular session.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the purposes of this Act.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved June 8, 2007.)

## ACT 164

H.B. NO. 1628

A Bill for an Act Relating to Hawaii Macadamia Nut Product Labeling.

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

SECTION 1. Section 486-120.5, Hawaii Revised Statutes, is amended as follows:

**“§486-120.5 Macadamia nuts; labeling requirements.** (a) If a label on a consumer package contains language that all of the raw or processed macadamia nuts contained in the package were grown in Hawaii, the label shall be worded, “100% Hawaii-Grown Macadamia Nuts”, “Hawaii-Grown Macadamia Nuts”, “100% Hawaiian Macadamia Nuts”, or “Hawaiian Macadamia Nuts”, and shall appear on the principal display panel of the package.

(b) If a label on a consumer package contains language that a portion of the raw or processed macadamia nuts contained in the package was grown in Hawaii, the label shall be worded “Hawaii-Grown Macadamia Nuts”, preceded by the per cent by weight of the macadamia nuts contained in the package that were grown in Hawaii, and shall appear on the principal display panel of the package. The per cent by weight of the macadamia nuts in the package shall be the percentage calculated by dividing the weight in pounds of the macadamia nuts grown in Hawaii that are in the package by the weight in pounds of all macadamia nuts in the package and multiplying the quotient by one hundred.

~~[(b)]~~ (c) All nonconsumer packages containing macadamia nuts grown in the State and introduced into intrastate or interstate commerce[,] shall bear on the package a label containing language that the package contains Hawaii-grown macadamia nuts. This label shall be in addition to all other labeling requirements specified in this chapter.

~~[(e)]~~ (d) Any person keeping, offering, displaying, exposing for sale, or soliciting for sale, any raw or processed macadamia nut product, which represents or which is branded or labeled that all or a percentage or portion of the macadamia nuts were grown in Hawaii, shall make available to the administrator, upon demand, documented proof that ~~[one hundred per cent of]~~ the amount of macadamia nuts ~~[were]~~ represented to be grown in the State, was grown in the State.

~~[(d)]~~ (e) It shall be a violation of this part [tø]:

- (1) To use a label containing the words, “100% Hawaii-Grown Macadamia Nuts”, “Hawaii-Grown Macadamia Nuts”, “100% Hawaiian Macadamia Nuts”, or “Hawaiian Macadamia Nuts”, or similar wording, or to otherwise represent that all of the macadamia nuts in the package were grown in Hawaii, if any portion of the macadamia nuts contained in the package [are] was not grown in the State[-];
- (2) To use a label, as provided for under subsection (b), containing the words “Hawaii-Grown Macadamia Nuts” preceded by a percentage, if less than the specified percentage or none of the macadamia nuts in the package was grown in the State; or
- (3) To use a label representing that any of the macadamia nuts contained in the package was grown in the State, if none of the macadamia nuts contained in the package was grown in the State.

(f) Any person who violates this section shall be subject to penalties under section 486-32.”

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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 and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon approval.

(Approved June 8, 2007.)

## ACT 165

H.B. NO. 870

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Seawater Air Conditioning Projects on the Island of Oahu.

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

SECTION 1. The legislature finds that support for the development of renewable energy systems and efficient energy systems in the State, which is geographically isolated from sources of oil, continues to be in the public interest.

The legislature further finds that Honolulu Seawater Air Conditioning LLC proposes to build seawater air conditioning district cooling systems on the island of Oahu. Honolulu Seawater Air Conditioning LLC is engaged in the planning, design, and construction of a seawater air conditioning district cooling facility and chilled water distribution system in downtown Honolulu using cold, deep seawater as the primary cooling source.

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. The legislature further finds that the issuance of special purpose revenue bonds and refunding special purpose revenue bonds under this Act to assist Honolulu Seawater Air Conditioning LLC, in constructing the portion of this district cooling project consisting of its chilled water distribution system and balance-of-system components and structures, will make the development of such a seawater air conditioning system more economically feasible and provide numerous benefits, because seawater air conditioning systems:

- (1) Provide customers with reduced and stable cooling costs;
- (2) Use an abundant, infinite, renewable energy resource – cold, deep seawater – to provide more than ninety per cent of the cooling load;
- (3) Eliminate the need for cooling towers and, as a result, reduce potable water use, toxic chemical use, and the production of sewage;
- (4) Greatly reduce the use of harmful chemicals (refrigerants) used in conventional cooling systems;
- (5) Can provide energy savings of seventy per cent, or more, compared to conventional air conditioning systems;
- (6) Have lower operating and maintenance costs than individual building air conditioning systems;
- (7) Eliminate the need for up to 0.63 kilowatts of electricity generation capacity for each ton of cooling capacity;
- (8) Will generate millions of dollars in construction project spending. In addition to construction jobs, a significant number of long-term, well-paid jobs will also be created. Other local economic development

- benefits will accrue from money that stays in Hawaii, and is not used to purchase oil; and
- (9) Will help the State of Hawaii, the city and county of Honolulu, and the federal government to meet goals and mandates for energy efficiency and renewable energy use.

SECTION 2. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, may issue special purpose revenue bonds in a total amount not to exceed \$20,000,000, in one or more series, for the purpose of assisting Honolulu Seawater Air Conditioning LLC, in the design and construction of this district cooling project.

The legislature finds and determines that the activity and facilities of Honolulu Seawater Conditioning LLC constitute a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 4. The department of budget and finance, from time to time, including times subsequent to June 30, 2012, may issue special purpose revenue bonds in whatever principal amounts the department determines to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund 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.

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 by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2012.

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved June 8, 2007.)

**ACT 166**

S.B. NO. 600

A Bill for an Act Relating to Leasehold Conversion.

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

SECTION 1. Section 235-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be excluded from gross income, adjusted gross income, and taxable income:

- (1) Income not subject to taxation by the State under the Constitution and laws of the United States;

- (2) Rights, benefits, and other income exempted from taxation by section 88-91, having to do with the state retirement system, and the rights, benefits, and other income, comparable to the rights, benefits, and other income exempted by section 88-91, under any other public retirement system;
- (3) Any compensation received in the form of a pension for past services;
- (4) Compensation paid to a patient affected with Hansen's disease employed by the State or the United States in any hospital, settlement, or place for the treatment of Hansen's disease;
- (5) Except as otherwise expressly provided, payments made by the United States or this State, under an act of Congress or a law of this State, which by express provision or administrative regulation or interpretation are exempt from both the normal and surtaxes of the United States, even though not so exempted by the Internal Revenue Code itself;
- (6) Any income expressly exempted or excluded from the measure of the tax imposed by this chapter by any other law of the State, it being the intent of this chapter not to repeal or supersede any [such] express exemption or exclusion;
- (7) Income received by each member of the reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States of America, and the Hawaii national guard as compensation for performance of duty, equivalent to pay received for forty-eight drills (equivalent of twelve weekends) and fifteen days of annual duty, at an:
  - (A) E-1 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2004;
  - (B) E-2 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2005;
  - (C) E-3 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2006;
  - (D) E-4 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2007; and
  - (E) E-5 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2008;
- (8) Income derived from the operation of ships or aircraft if the income is exempt under the Internal Revenue Code pursuant to the provisions of an income tax treaty or agreement entered into by and between the United States and a foreign country[.]; provided that the tax laws of the local governments of that country reciprocally exempt from the application of all of their net income taxes, the income derived from the operation of ships or aircraft that are documented or registered under the laws of the United States;
- (9) The value of legal services provided by a prepaid legal service plan to a taxpayer, the taxpayer's spouse, and the taxpayer's dependents;
- (10) Amounts paid, directly or indirectly, by a prepaid legal service plan to a taxpayer as payment or reimbursement for the provision of legal services to the taxpayer, the taxpayer's spouse, and the taxpayer's dependents;
- (11) Contributions by an employer to a prepaid legal service plan for compensation (through insurance or otherwise) to the employer's em-

- ployees for the costs of legal services incurred by the employer's employees, their spouses, and their dependents; [and]
- (12) Amounts received in the form of a monthly surcharge by a utility acting on behalf of an affected utility under section 269-16.3 shall not be gross income, adjusted gross income, or taxable income for the acting utility under this chapter. Any amounts retained by the acting utility for collection or other costs shall not be included in this exemption[-]; and
- (13) One hundred per cent of the gain realized by a fee simple owner from the sale of a leased fee interest in units within a condominium project, cooperative project, or planned unit development to the association of apartment owners or the residential cooperative corporation of the leasehold units.  
For purposes of this paragraph:  
"Fee simple owner" shall have the same meaning as provided under section 516-1; provided that it shall include legal and equitable owners;  
"Legal and equitable owner," and "leased fee interest" shall have the same meanings as provided under section 516-1; and  
"Condominium project" and "cooperative project" shall have the same meanings as provided under section 514C-1."

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

SECTION 3. This Act shall take effect upon approval, and shall apply to taxable years beginning after December 31, 2007, and ending prior to January 1, 2013; provided that on January 1, 2013, this Act shall be repealed and section 235-7(a), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act.

(Approved June 8, 2007.)

## ACT 167

H.B. NO. 162

A Bill for an Act Relating to State Finances.

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

SECTION 1. Section 576D-5, Hawaii Revised Statutes, is amended to read as follows:

**“[~~§~~576D-5] Fee for obtaining or enforcing nonpublic assistance order.** (a) The agency shall require the payment of a reasonable fee on the application of a person under section 576D-3(b)(3) who is not receiving public assistance for support of the child for assistance in obtaining or enforcing a child support order. The payment and amount of the fee shall be in compliance with applicable federal regulations promulgated under Title IV-D.

(b) In the case of an individual who has never received public assistance for the support of a child under Title IV-A and for whom the State has collected not less than \$500 of support, the agency shall impose an annual fee of \$25 for each case in

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which Title IV-D services were furnished, which shall be retained in accordance with Title IV-D requirements; provided that the \$25 shall not be retained from the first \$500 so collected. Any fee collected shall be maintained by the agency and used as required under Title IV-D.’’

SECTION 2. Effective October 1, 2007, personnel employed by the family support divisions of the county of Hawaii and the city and county of Honolulu whose functions, duties, responsibilities, and activities relate to child support enforcement shall be transferred to the department of the attorney general. There is established twenty-four permanent full-time equivalent (24.0 FTE) positions in the department of the attorney general to carry out the purposes of this Act.

Such employees holding civil service status shall be transferred to similar or corresponding positions in the department of the attorney general, subject to state personnel laws and this Act. All civil service employees shall acquire permanent civil service status within the meanings of chapter 76, Hawaii Revised Statutes, without the necessity of examination, and without loss of salary, seniority, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges; provided that the employees possess the minimum qualifications for the class and/or position to which transferred or appointed, as applicable; 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 any employee having permanent civil service status or membership is affected by workload changes or is abolished, such employee shall remain in the employment of the State in accordance with the civil service law, the applicable bargaining unit contract, or the state personnel rules and regulations, whichever is applicable.

Any employee who, prior to this Act, was exempt from civil service and who may be transferred as a consequence of this Act, may continue to retain the employee's exempt status, but shall not be appointed to a civil service position because of this Act. No employee who is transferred by this Act shall suffer any loss of prior service credit, any vacation and sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act. The attorney general may prescribe the duties and qualifications of such employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.

All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, computer software and data, and other personal property made, used, acquired, or held by the family support divisions of the county of Hawaii and the city and county of Honolulu on September 30, 2007, relating to the functions transferred to the department of the attorney general shall be transferred with the functions to which they relate on October 1, 2007.

The provisions of this section are to be liberally construed to effectuate its purposes.

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

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

(Approved June 12, 2007.)

ACT 168

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 per cent of the principal amount of outstanding general obligation bonds not otherwise excluded under 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 2006-2007 and estimated for each fiscal year from 2007-2008 to 2010-2011, is as follows:

<u>Fiscal Year</u>	<u>Net General Fund Revenues</u>	<u>Debt Limit</u>
2003-2004	\$3,894,091,730	
2004-2005	4,471,460,582	
2005-2006	4,904,019,330	
2006-2007	5,166,308,841	\$ 818,290,251
2007-2008	5,475,408,566	896,743,640
2008-2009	5,699,724,598	958,653,765
2009-2010	5,952,684,594	1,007,722,257
2010-2011	(not applicable)	1,056,215,428

For fiscal years 2006-2007, 2007-2008, 2008-2009, 2009-2010 and 2010-2011, 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 2003-2004, 2004-2005, and 2005-2006 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, 2006, dated November 20, 2006. The net general fund revenues for fiscal years 2006-2007 to 2009-2010 are estimates, based on general fund revenue estimates made as of March 15, 2007, 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 that 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 April 1, 2007, is as follows for fiscal year 2007-2008 to fiscal year 2013-2014:

<u>Fiscal Year</u>	<u>Principal and Interest</u>
2007-2008	\$545,706,611
2008-2009	550,528,449
2009-2010	520,501,030
2010-2011	509,135,353
2011-2012	454,845,585
2012-2013	455,702,671
2013-2014	410,486,038

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 2014-2015 to fiscal year 2026-2027 when the final installment of \$30,896,250 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 \$191,000,000, all or 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.
- (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, 2007, adjusted for:
    - (i) Appropriations to be funded by general obligations bonds or reimbursable general obligation bonds as provided in House Bill No. 500, H.D. 1, S.D. 1, C.D. 1<sup>1</sup> (the General Appropriations Act of 2007);

- (ii) Lapses as provided in House Bill No. 500, H.D. 1, S.D. 1, C.D. 1<sup>1</sup> (the General Appropriations Act of 2007);
  - (iii) Appropriations to be funded by general obligation bonds or reimbursable general obligation bonds as provided in House Bill No. 1212, H.D. 2, S.D. 2, C.D. 1<sup>2</sup> (the Judiciary Appropriations Act of 2007);
  - (iv) Lapses as provided in House Bill No. 1212, H.D. 2, S.D. 2, C.D. 1<sup>2</sup> (the Judiciary Appropriations Act of 2007);
  - (v) Appropriations to be funded by general obligation bonds or reimbursable general obligation bonds as provided in House Bill No. 667, H.D. 1, S.D. 2, C.D. 1<sup>3</sup>; and
  - (vi) The issuance of \$350,000,000 General Obligation Bonds of 2007, Series DJ,  
 the total amount of authorized but unissued general obligation bonds or reimbursable general obligation bonds is \$1,062,761,333. The total amount of general obligation bonds authorized by this Act is \$982,031,000. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized in this Act is \$2,044,792,333.
- (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 \$191,000,000, all or 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 therein for the fiscal years 2007-2008, 2008-2009, 2009-2010 and 2010-2011, the State proposed to issue \$275,000,000 in general obligation bonds during the first half of fiscal year 2007-2008, \$275,000,000 in general obligation bonds during the second half of fiscal year 2007-2008, \$275,000,000 in general obligation bonds during the first half of fiscal year 2008-2009, \$275,000,000 in general obligation bonds during the second half of fiscal year 2008-2009, \$275,000,000 in general obligation bonds during the first half of fiscal year 2009-2010, \$250,000,000 in general obligation bonds during the second half of fiscal year 2009-2010, \$275,000,000 in general obligation bonds during the first half of fiscal year 2010-2011, \$145,000,000 in general obligation bonds during the second half of fiscal year 2010-2011. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the fifth year, the bonds payable in substantially equal annual installments of principal and interest payment with interest payments commencing six months from the date of issuance and being paid semi-annually thereafter. It is assumed that this practice will continue to be applied to the bonds that 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 that the State proposes to issue during the fiscal years 2007-2008 to 2009-2010 is \$1,625,000,000. An additional \$420,000,000 is proposed to be issued in fiscal year 2010-2011. The total amount of \$1,625,000,000 which is proposed to be issued through fiscal year 2009-2010 is sufficient to meet the requirements of the authorized and unissued bonds, as ad-

justed, the total amount of which is \$2,044,792,333, as reported in paragraph (4), except for \$419,792,333. It is assumed that the appropriations to which an additional \$419,792,333 in bond issuance needs to be applied will have been encumbered as of June 30, 2010. The \$420,000,000 which is proposed to be issued in fiscal year 2010-2011 will be sufficient to meet the requirements of the June 30, 2010, encumbrances in the amount of \$419,792,333. The amount of assumed encumbrances as of June 30, 2010, 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 proposed to be issued by June 30, 2010, and the amount of June 30, 2010, encumbrances versus the amount of bonds proposed to be issued in fiscal year 2010-2011, the legislature finds that in the aggregate, the amount of bonds 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 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 the calculation against the debt limit is 1.99 per cent for the ten years from fiscal year 2007-2008 to fiscal year 2016-2017. For the purpose of this declaration, the assumption is made that one per cent of each bond issue shall be excludable from the debt limit, an assumption 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 may be excluded but only to the extent the principal amount of such guaranties does not exceed seven per cent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of this paragraph; 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 2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011 are as follows:

<u>Fiscal Year</u>	<u>Total amount of General Obligation Bonds not otherwise excluded by Article VII, Section 13 of the State Constitution</u>
2006-2007	\$4,294,794,867
2007-2008	4,531,888,122
2008-2009	4,750,780,005
2009-2010	4,943,610,752
2010-2011	5,014,335,726

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 per cent of the average amount set forth in the last column of the above table and for which reserve funds have been or shall have been established as heretofore provided, may 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 shall 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), all of the outstanding guaranties may be excluded.

- (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 not more than 6.0 per cent, 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:

<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>
2 <sup>nd</sup> half of FY 2006-2007 \$346,500,000	818,290,251	550,528,449 (2008-2009)
1 <sup>st</sup> half FY 2007-2008 \$272,250,000	896,743,640	566,863,449 (2008-2009)

<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>
2 <sup>nd</sup> half FY 2007-2008 \$272,250,000	896,743,640	583,198,449 (2008-2009)
1 <sup>st</sup> half FY 2008-2009 \$272,250,000	958,653,765	561,338,530 (2009-2010)
2 <sup>nd</sup> half FY 2008-2009 \$272,250,000	958,653,765	577,673,530 (2009-2010)
1 <sup>st</sup> half FY 2009-2010 \$272,250,000	1,007,722,257	590,810,353 (2010-2011)
2 <sup>nd</sup> half FY 2009-2010 \$247,500,000	1,007,722,257	605,660,353 (2010-2011)
1 <sup>st</sup> half FY 2010-2011 \$272,250,000	1,056,215,428	613,827,853 (2010-2011)
2 <sup>nd</sup> half FY 2010-2011 \$143,550,000	1,056,215,428	618,857,771 (2012-2013)

- (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 all guaranties, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds the bases for the declaration of findings set forth in this Act reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being 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 the projects authorized in House Bill No. 500, H.D. 1, S.D. 1, C.D. 1<sup>1</sup> (the General Appropriations Act of 2007), House Bill No. 1212, H.D. 2, S.D. 2, C.D. 1<sup>2</sup> (the Judiciary Appropriations Act of 2007), and House Bill No. 667, H.D. 1, S.D. 2, C.D. 1<sup>3</sup> passed by this regular session of 2007, 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 general obligation bonds so issued shall not exceed \$982,031,000.

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 12, 2007.)

Notes

- 1. Act 213.
- 2. Act 169.
- 3. Act 231.

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H.B. NO. 1212

A Bill for an Act Relating to the Judiciary.

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

**PART I. GENERAL PROVISIONS**

SECTION 1. This Act shall be known and may be cited as the Judiciary Appropriations Act of 2007.

SECTION 2. Unless otherwise clear from the context, as used in this Act:

(a) "Program ID" means the unique identifier for the specific program and consists of the abbreviation for the judiciary (JUD) followed by a designated number for the program.

(b) "Means of Financing", or "MOF", means the source from which funds are appropriated, or authorized, as the case may be, to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. The letter symbols, where used, shall have the following meanings:

- A General funds
- B Special funds
- C General obligation bond funds
- N Other federal funds
- W Revolving funds

(c) "Position ceiling" means the maximum number of permanent positions authorized for a particular program during a specified period or periods, as noted by an asterisk.

**PART II. PROGRAM APPROPRIATIONS**

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, 2007, and ending June 30, 2009. 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 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>The Judicial System</b>							
1.	JUD101	COURTS OF APPEAL					
	OPERATING		JUD	80.00*		80.00*	
			JUD	6,946,406A		7,009,698A	
				243,261W		243,261W	
2.	JUD310	FIRST JUDICIAL CIRCUIT					
	OPERATING		JUD	1,069.50*		1,077.50*	
			JUD	71,101,064A		69,804,878A	
			JUD	40.00*		40.00*	
			JUD	3,515,326B		3,515,326B	
3.	JUD320	SECOND JUDICIAL CIRCUIT					
	OPERATING		JUD	215.00*		216.00*	
			JUD	14,450,344A		14,601,905A	
			JUD	10,168B		150B	
4.	JUD330	THIRD JUDICIAL CIRCUIT					
	OPERATING		JUD	222.00*		222.00*	
			JUD	17,494,185A		17,636,248A	
5.	JUD350	FIFTH JUDICIAL CIRCUIT					
	OPERATING		JUD	98.00*		98.00*	
			JUD	6,878,391A		6,898,490A	
6.	JUD601	ADMINISTRATION					
	OPERATING		JUD	226.00*		226.00*	
			JUD	22,541,795A		20,555,965A	
			JUD	1.00*		1.00*	
			JUD	6,207,227B		5,624,607B	
			JUD	100,000W		100,000W	
	INVESTMENT CAPITAL		JUD	27,250,000C		500,000C	

PART III. PROGRAM PROVISIONS

SECTION 4. Provided that whenever the need arises, the chief justice, in administering an equitable and expeditious judicial process, is authorized to transfer sufficient funds and positions between programs for operating purposes; provided further that no transfer shall be made to implement any collective bargaining contract signed after this legislature adjourns sine die.

SECTION 5. Provided that if the chief justice, or any agency, or any government unit, secures federal funds or other property under any act of Congress, or any funds or other property from private organizations or individuals which are to be expended in connection with any program or works authorized by this Act, or otherwise, the chief justice, or the agency with the chief justice's approval, shall have the power to enter into the undertaking with the federal government, private organization, or individual; provided further that while most federal aid allocations are known and state matching funds are provided in this Act, in instances where programs for which federal-state cost sharing is not yet determined, the availability of federal funds shall be construed as a proportionate reduction of state costs whenever possible.

SECTION 6. Provided that the judiciary is authorized to transfer savings from its general fund appropriation to the driver education special fund to accommodate any temporary cash flow deficits.

SECTION 7. Provided that of the general fund appropriation for the first judicial circuit (JUD 310), the sum of \$199,883 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$246,912 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used for the Interagency Council on Intermediate Sanctions; provided further that the funds shall not be expended for any other purpose; provided further that the judiciary shall prepare a detailed report that shall include, but not be limited to, the following information:

- (1) A detailed breakdown of expenditures;
- (2) A detailed breakdown of treatment services provided;
- (3) Costs incurred and treatment outcomes;
- (4) Results of the evaluation performed;
- (5) An analysis of the effectiveness of the project;

and provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 8. Provided that of the general fund appropriation for first judicial circuit (JUD 310), the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for drug court; provided further that the funds shall be used for medically targeted substance abuse treatment for drug addicted offenders – integrated approach supervised by physicians; and provided further that a progress report shall be provided to the legislature no later than thirty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 9. Provided that of the general fund appropriation for second judicial circuit (JUD 320), the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for drug court; provided further that the funds shall be used for medically targeted substance abuse treatment for drug addicted offenders – integrated approach supervised by physicians; and provided further that a progress report shall be provided to the legislature no later than thirty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 10. Provided that of the general fund appropriation for third judicial circuit (JUD 330), the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for drug court; provided further that the funds shall be used for medically targeted substance abuse treatment for drug addicted offenders – integrated approach supervised by physicians; and provided further that a progress report shall be provided to the legislature no later than thirty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 11. Provided that the judiciary shall submit a report on all revenues and expenditures from the court interpreting services revolving fund as of December 1; provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 12. Provided that of the general fund appropriation for administration (JUD 601), the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2007-2008 and \$100,000 or so much thereof as may be necessary for

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fiscal year 2008-2009 shall be used for service on a fee basis—interpreter fees for the office of equality and access to the courts; provided further that the funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse into the general fund; provided further that the judiciary shall prepare a report that shall include but not be limited to the following information:

- (1) The status of the implementation of the court interpreter program; and
- (2) A detailed evaluation of the service provided and the effectiveness of the program;

and provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 13. Provided that of the general fund appropriation for administration (JUD 601), the sum of \$125,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$460,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to fund the upgrading of the fixed assets and payroll system; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse into the general fund.

SECTION 14. Provided that of the general fund appropriation for administration (JUD 601), the sum of \$280,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$135,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to fund the implementation of the electronic leave system; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse into the general fund.

**PART IV. CAPITAL IMPROVEMENT PROJECTS**

SECTION 15. The sum of \$27,750,000 appropriated or authorized in part II of this Act for capital improvement 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 implementation; and provided further that the total cost of the projects thus combined shall not exceed the total of the sums specified for the projects separately. The amount 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 PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F

**The Judicial System**

**JUD601 - ADMINISTRATION**

- 1. KAPOLEI JUDICIARY COMPLEX, OAHU  
PLANS, LAND ACQUISITION, DESIGN,  
CONSTRUCTION, AND EQUIPMENT FOR THE NEW  
KAPOLEI JUDICIARY COMPLEX AT KAPOLEI,  
OAHU.

PLANS

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**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		LAND		25			
		DESIGN		1,000			
		CONSTRUCTION		23,900			
		EQUIPMENT		50			
		TOTAL FUNDING	JUD	25,200C			C
2.		LUMP SUM CIP FOR JUDICIARY FACILITIES, STATEWIDE					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REMODELING AND UPGRADING OF JUDICIARY BUILDINGS, STATEWIDE.					
		PLANS		100			1
		DESIGN		300			1
		CONSTRUCTION		1,000			497
		EQUIPMENT		100			1
		TOTAL FUNDING	JUD	1,500C			500C
3.		DOMESTIC VIOLENCE CLEARINGHOUSE AND LEGAL HOTLINE, OAHU					
		LAND ACQUISITION TO PURCHASE OFFICE SPACE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		LAND		500			
		TOTAL FUNDING	JUD	500C			C
4.		VOLUNTEER LEGAL SERVICES HAWAII, OAHU					
		DESIGN AND CONSTRUCTION FOR FACILITY IMPROVEMENTS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN		10			
		CONSTRUCTION		40			
		TOTAL FUNDING	JUD	50C			C

**PART V. ISSUANCE OF BONDS**

SECTION 16. 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 \$27,750,000.

SECTION 17. Any law to the contrary notwithstanding, the appropriations under Act 1, First Special Session Laws of Hawaii 2001, section 14 as amended and renumbered by Act 91, Session Laws of Hawaii 2002, section 4, in the amount indicated or the balances thereof, allotted, encumbered, or unrequired, is hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
JUD601-11L	\$82,000 C

SECTION 18. Any law to the contrary notwithstanding, the appropriations under Act 110, Session Laws of Hawaii 2005, section 8 as amended and renumbered

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by Act 120, Session Laws of Hawaii 2006, section 4, in the amount indicated or the balances thereof, allotted, encumbered, or unrequired, is hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
JUD 601-1	\$5,985,000 C

**PART VI. SPECIAL PROVISIONS**

SECTION 19. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital improvement projects authorized in Part II and listed in Part IV of this Act shall not lapse at the end of the fiscal year for which the appropriations are made; provided that all appropriations made for fiscal year 2007-2008 and fiscal year 2008-2009 which are unencumbered as of June 30, 2010, shall lapse as of that date.

SECTION 20. The judiciary is authorized to delegate to other state or county agencies the planning, acquisition of land, design, construction, and equipment of any capital improvement project when it is determined by the judiciary to be advantageous to do so.

SECTION 21. All unrequired balances in the general obligation bond fund, after the objectives of Part II appropriations for capital improvements program purposes listed as projects in Part IV have been met, shall be transferred to the judiciary project adjustment fund.

SECTION 22. If the amount allocated from the general obligation bond fund for a capital improvement project listed in Part IV of this Act is insufficient, the chief justice may make supplemental allotments from the project adjustment fund; provided that supplemental allotments shall not be used to increase the scope of the project.

SECTION 23. Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a project listed in Part IV, the chief justice may authorize such reduction of project scope.

SECTION 24. The chief justice shall determine when and the manner in which the authorized capital improvement projects shall be initiated. The chief justice shall notify the governor from time to time of the specific amounts required for the projects, and the governor shall provide for those amounts through the issuance of bonds authorized in Part V of this Act.

SECTION 25. Any law or any provision to the contrary notwithstanding, the chief justice may supplement funds for any cost element for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds appropriated for other cost elements of the same project by this Act or by any other prior or future Act that has not lapsed; provided that the total expenditure of funds for all cost elements for the project shall not exceed the total appropriation for that project.

**PART VII. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE**

SECTION 26. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, the remainder of the Act and any

provision thereof shall not be affected. 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 shall be expended to fulfill the objective and intent of the appropriation to the greatest extent possible.

SECTION 27. If any manifest clerical, typographical, or other mechanical error is found in this Act, the chief justice is authorized to correct the error. All changes made pursuant to this section shall be reported to the legislature at its next regular session.

SECTION 28. This Act shall take effect on July 1, 2007.

(Approved June 12, 2007.)

## ACT 170

H.B. NO. 1200

A Bill for an Act Relating to the Budget of the Office of Hawaiian Affairs.

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

### PART I. GENERAL PROVISIONS

SECTION 1. The purpose of this Act is to appropriate funds for the biennial budget of the office of Hawaiian affairs and this Act shall be known and may be cited as the "Office of Hawaiian Affairs Appropriations Act of 2007."

SECTION 2. Unless otherwise clear from the context, as used in this Act: "Program ID" means the unique identifier of the specific program, and consists of the abbreviation for the office of Hawaiian affairs followed by a designated number for the program.

"Means of financing", or "MOF", means the source from which funds are appropriated or authorized, as the case may be, to be expended for the programs and projects specified in this Act. Letter symbols following appropriations have the following meanings:

A: General Funds

T: Trust Funds

"Position ceiling" means the maximum number of permanent positions authorized for a particular program during a specified period or periods, as noted by an asterisk.

SECTION 3. The following sums, or so much thereof as may be necessary 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, 2007, and ending June 30, 2009. 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 ceiling indicated for each year, except as provided elsewhere in this Act.

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>Hawaiian Affairs</b>							
1.	OHA150 - OFFICE OF THE TRUSTEES						
	OPERATING		OHA		.65*		.60*
			OHA	31,149A		31,149A	
			OHA	4.35*		4.40*	
			OHA	272,193T		284,608T	
2.	OHA160 - ADMINISTRATION						
	OPERATING		OHA		7.60*		7.22*
			OHA	936,263A		936,263A	
			OHA	30.40*		30.78*	
	INVESTMENT CAPITAL		OHA	2,837,087T		2,952,722T	
			OHA	3,050,000T		52,990,000T	
3.	OHA175 - BENEFICIARY ADVOCACY						
	OPERATING		OHA		3.23*		3.23*
			OHA	2,085,696A		2,119,663A	
			OHA	15.77*		15.77*	
			OHA	3,098,206T		3,190,167T	

SECTION 4. Provided that the general fund appropriations in section 3 of this Act shall be expended by the office of Hawaiian affairs.

SECTION 5. Provided that of the funds appropriated for beneficiary advocacy (OHA 175), the sum of \$415,000 in general funds and \$415,000 in trust funds for fiscal year 2007-2008 and the sum of \$415,000 in general funds and \$415,000 in trust funds for fiscal year 2008-2009 shall provide for social services to office of Hawaiian affairs beneficiaries to include information and referral services, case management and counseling, establishment of individual development accounts, financial literacy, and financial assistance. Referral services include those relating to education assistance, employment and income security, individual and family care, health needs, housing, legal services, genealogy research, business assistance, and general information; provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, any funds expended for the purposes of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, as appropriate.

SECTION 6. Provided that of the funds appropriated for beneficiary advocacy (OHA 175), the sum of \$490,433 in general funds and \$490,433 in trust funds for fiscal year 2007-2008 and the sum of \$524,400 in general funds and \$524,400 in trust funds for fiscal year 2008-2009 shall provide for educational enrichment programs for native Hawaiian children in grades K through 12 throughout the State. Program activities are to be designed to optimize learning for Hawaiian students and are intended to develop a stronger interest in learning, connect learning and education to one's Hawaiian identity, and explore possible educational, career and academic goals the students may not have considered; provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, any funds expended for the purposes of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, as appropriate.

SECTION 7. Provided that of the funds appropriated for beneficiary advocacy (OHA 175), the sum of \$592,302 in general funds and \$592,302 in trust funds for fiscal year 2007-2008 and the sum of \$592,302 in general funds and \$592,302 in trust funds for fiscal year 2008-2009 shall provide legal services and legal representation to office of Hawaiian affairs beneficiaries for: the assertion and defense of quiet title actions; assistance with ahupua'a and kuleana tenant rights, including rights of access and rights to water, land title assistance, including review of title and genealogy, preservation of traditional and customary practices, protection of culturally significant places, and preservation of native Hawaiian land trust entitlements; provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, any funds expended for the purposes of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, as appropriate.

SECTION 8. Provided that whenever the need arises, the board of trustees of the office of Hawaiian affairs or their designee is authorized to transfer sufficient funds and positions between programs for operating purposes; provided further that these transfers shall not be inconsistent with legislative intent; and provided further that a report of these fund transfers shall be made to the legislature no later than thirty days prior to the convening of the 2008 and 2009 regular sessions.

**PART II. CAPITAL IMPROVEMENT PROJECT**

SECTION 9. The sum of \$56,040,000 appropriated or authorized in part I of this Act for a capital improvement project shall be expended by the office of Hawaiian affairs for the project listed below. The amount after each cost element and the total funding for the project are in thousands of dollars.

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>Hawaiian Affairs</b>							
<b>OHA160 - ADMINISTRATION</b>							
1.		CULTURAL CENTER AND OFFICE BUILDING, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW CULTURE CENTER AND OFFICE BUILDING ON OAHU.					
		DESIGN		3,050			
		CONSTRUCTION				49,490	
		EQUIPMENT				3,500	
		TOTAL FUNDING	OHA	3,050 T		52,990 T	

**PART III. SPECIAL PROVISIONS**

SECTION 10. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital improvement projects authorized in part I and listed in part II of this Act shall not lapse at the end of the fiscal year for which the appropriations are made; provided that all appropriations made for fiscal

## ACT 171

year 2007–2008 and fiscal year 2008–2009 which are unencumbered as of June 30, 2010, shall lapse as of that date.

SECTION 11. The office of Hawaiian affairs is authorized to delegate to other state or county agencies the planning, acquisition of land, design, construction, and equipment of any capital improvement project when it is determined by the office of Hawaiian affairs to be advantageous to do so.

SECTION 12. The board of trustees of the office of Hawaiian affairs or their designee shall determine when and the manner in which the authorized capital improvement project shall be initiated.

SECTION 13. Any law or any provision to the contrary notwithstanding, the board of trustees of the office of Hawaiian affairs or their designee may supplement funds for any cost element for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds appropriated for other cost elements of the same project by this Act.

### PART IV. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE

SECTION 14. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, the remainder of the Act and any provision thereof shall not be affected. 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 shall be expended to fulfill the objective and intent of the appropriation to the extent possible.

SECTION 15. In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the board of trustees of the office of Hawaiian affairs is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 16. This Act shall take effect on July 1, 2007.

(Approved June 12, 2007.)

## ACT 171

H.B. NO. 116

A Bill for an Act Relating to Telecommunications.

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

SECTION 1. Section 205-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Within the agricultural district, all lands with soil classified by the land study bureau’s detailed land classification as overall (master) productivity rating class A or B shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage, and timber;
- (2) Game and fish propagation;

- (3) Raising of livestock, including but not limited to poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;
  - (4) Farm dwellings, employee housing, farm buildings, or activities or uses related to farming and animal husbandry. "Farm dwelling", as used in this paragraph, means a single-family dwelling located on and used in connection with a farm, including clusters of single-family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling;
  - (5) Public institutions and buildings that are necessary for agricultural practices;
  - (6) Public and private open area types of recreational uses, including day camps, picnic grounds, parks, and riding stables, but not including dragstrips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
  - (7) Public, private, and quasi-public utility lines and roadways, transformer stations, communications equipment buildings, solid waste transfer stations, major water storage tanks, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants, corporation yards, or other similar structures;
  - (8) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest;
  - (9) Roadside stands for the sale of agricultural products grown on the premises;
  - (10) Buildings and uses, including but not limited to mills, storage, and processing facilities, maintenance facilities, and vehicle and equipment storage areas that are normally considered directly accessory to the above mentioned uses and are permitted under section 205-2(d);
  - (11) Agricultural parks;
  - (12) Plantation community subdivisions, which as used in this paragraph means a subdivision or cluster of employee housing, community buildings, and acreage established on land currently or formerly owned, leased, or operated by a sugar or pineapple plantation and in residential use by employees or former employees of the plantation; provided that the employees or former employees shall have a property interest in the land;
- ~~[(13)]~~ Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5; ~~[or]~~
- ~~[(14)]~~ Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that such facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land[-]; or
- (15) Construction and operation of wireless communication antennas; provided that, for the purposes of this paragraph, "wireless communication antenna" means communications equipment that is either free-standing or placed upon or attached to an already existing structure and that transmits and receives electromagnetic radio signals used in the

provision of all types of wireless communications services; provided further that nothing in this paragraph shall be construed to permit the construction of any new structure that is not deemed a permitted use under this subsection.”

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

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

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved June 12, 2007.)

**ACT 172**

S.B. NO. 1315

A Bill for an Act Relating to the Access Hawaii Committee.

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

SECTION 1. The purpose of this Act is to re-enact and codify substantive sections of Act 292, Session Laws of Hawaii 2000, and to reestablish the access Hawaii committee.

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

**“CHAPTER  
ACCESS HAWAII COMMITTEE**

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

“Committee” means the access Hawaii committee.

“Government agency” means any government agency that stores, gathers, or generates public information, including all branches of government, all executive departments, boards, and commissions of the State or counties, and all public corporations created by the legislature.

“Internet” means the global information system that is logically linked together by a globally unique address space based on the Internet protocol (IP), or its subsequent extension; and that is able to support communications using the transmission control protocol/Internet protocol (TCP/IP) suite, or its subsequent extension, or other IP-compatible protocols; and that provides, uses, or makes accessible, either publicly or privately, information to users.

“Internet portal” means the centralized electronic information system by which public information is provided via dial-in modem or continuous link to the public through subscriptions.

“Portal manager” means the entity or person engaged to manage and operate the internet portal on behalf of the State.

“Value added electronic services” means services, including but not limited to:

- (1) Providing periodic, continual, and ongoing access to information maintained by a government agency without requiring separate requests for information as it is created;
- (2) Compiling data or performing other research services;
- (3) Permitting the electronic filing of reports, renewals, or application; or
- (4) Enabling the transaction of business over the Internet portal.

§ **-2 Charges for services.** Any law to the contrary notwithstanding, government agencies may charge for value added electronic services provided through the portal manager.

§ **-3 Access Hawaii committee; establishment; membership; chairperson.** (a) There is established within the department of accounting and general services, the access Hawaii committee.

(b) The committee shall consist of not more than fifteen voting ex officio members, or their designated representatives, as follows:

- (1) The comptroller;
  - (2) The administrator of the information and communication services division of the department of accounting and general services;
  - (3) The administrator of the state procurement office;
  - (4) The director of the office of information practices;
  - (5) The directors of not more than three government agencies using or planning to use the services of the portal manager;
  - (6) The administrative director of the courts;
  - (7) A representative of the Hawaii state senate appointed by the president of the senate;
  - (8) A representative of the Hawaii state house of representatives appointed by the speaker of the house of representatives; and
  - (9) The chief information officers of the four counties.
- (c) The comptroller shall serve as the chairperson of the committee.

§ **-4 Duties of the committee.** The committee shall provide oversight of the portal manager, including:

- (1) Review of the annual strategic plan and periodic reports on potential new applications and services submitted by the portal manager;
- (2) Review and approval of all charges to portal users;
- (3) Review and approval of service level agreements negotiated by government agencies with the portal manager;
- (4) Review of the annual financial reports and audit of the portal manager;
- (5) Review of annual customer satisfaction surveys conducted by the portal manager; and
- (6) Review of performance measures of the portal submitted as part of the service management plan for portal-wide indicators and application specific indicators.

§ **-5 Annual report.** The committee shall submit an annual report to the governor and the legislature no later than twenty days prior to the convening of each regular session, on the operations of the portal.’’

SECTION 3. This Act shall take effect upon approval.

(Approved June 13, 2007.)

A Bill for an Act Relating to General Excise Tax.

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

SECTION 1. The legislature finds that SMG is the operator under contract with the Hawaii tourism authority to operate the Hawaii convention center. As such, the operator is paid only \$500,000 to operate and market the Hawaii convention center but recently received \$16,000,000 in advances for the costs of operating and marketing the Hawaii convention center. The department of taxation considers the reimbursement of the \$16,000,000 in costs and advances to the operator as gross income on which the general excise tax is to be levied, in the amount of \$700,000, because the operator receives additional monetary consideration in the form of the \$500,000 payment. In effect, this means that \$700,000 of the costs and advances cannot be used for operating and marketing the Hawaii convention center. However, pursuant to section 201B-8(b), Hawaii Revised Statutes, the costs and advances for the operation and marketing of the Hawaii convention center is an obligation of the convention center enterprise special fund and not compensation for personal services to the operator.

Accordingly, the purpose of this Act is to exempt from the general excise tax, amounts received by the operator of the Hawaii convention center for reimbursement of costs or advances made pursuant to contract with the Hawaii tourism authority.

SECTION 2. Section 237-24.75, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§237-24.75]]~~ **Additional exemptions.** In addition to the amounts exempt under section 237-24, this chapter shall not apply to ~~[amounts];~~

- (1) Amounts received as a beverage container deposit collected under chapter 342G, part VIII[-]; and
- (2) Amounts received by the operator of the Hawaii convention center for reimbursement of costs or advances made pursuant to a contract with the Hawaii tourism authority under section 201B-7.”

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

SECTION 4. This Act shall take effect upon its approval, and shall apply to gross income or gross proceeds received after the effective date of this Act.

(Approved June 13, 2007.)

A Bill for an Act Relating to Pesticides.

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

SECTION 1. Chapter 149A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§149A- Pesticide information signs.** (a) Every retailer that sells pesticides to the public shall post a warning sign with respect to the sale of pesticides, pursuant to rules adopted by the department; provided that retailers may post the warning sign or place the warning sign at the product display areas.

(b) The department shall adopt rules pursuant to chapter 91 and subsection (a) to require the posting of pesticide warning signs containing but not limited to the following information:

- (1) The proper handling, storage, and disposal of all pesticides sold;
- (2) Emergency telephone numbers to call in case of poisoning from the pesticides; and
- (3) Any other related information the department deems helpful and appropriate for consumers.

The department may also adopt any other rules pursuant to chapter 91 necessary to effectuate this section, including rules relating to the size and placement of warning signs.’’

SECTION 2. Section 149A-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“‘‘Distribute or sell’’ means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and deliver or offer to deliver; provided that the term does not include the holding or application of registered pesticides or the use of dilutions of registered pesticides by any applicator who provides a service of controlling pests without delivering any unapplied pesticide to any person so served.’’

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. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved June 13, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 175**

S.B. NO. 12

A Bill for an Act Relating to Health Insurance Rate Regulation.

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

SECTION 1. The legislature finds that Act 74, Session Laws of Hawaii 2002 (Act 74), established a health insurance rate regulation law.

Act 74 assisted the state economy by stabilizing health insurance, a significant fixed cost borne by Hawaii employers and employees to help mitigate the economic effects of the terrorist acts of September 11, 2001. Act 74 regulated health insurance rates to protect the public interest and to help ensure that health insurance rates are not excessive, inadequate, or unfairly discriminatory in a manner similar to the way that motor vehicle, workers’ compensation, homeowners’, and other prop-

erty and casualty insurance lines are presently regulated. In addition, Act 74 ensured that rates would not be confiscatory or predatory.

The 2002 legislature found that rate regulation of other lines of insurance, such as motor vehicle, homeowners', and workers' compensation, had resulted in premium decreases from 1997 to 2002, while unregulated health insurance rates rose over the same period. The 2002 legislature found, and this legislature agrees, that rate regulation ensures that rates are not excessive, thereby protecting employers and employees from unduly burdensome and unwarranted premium increases. Rate regulation also ensures that rates are adequate to promote the long-term viability of health care plans and are actuarially prudent, while preventing predatory pricing.

Unfortunately, Act 74 was repealed on June 30, 2006, pursuant to a sunset provision.

The purpose of this Act is to re-establish a health insurance rate regulation.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new article to be appropriately designated and to read as follows:

**“ARTICLE  
HEALTH INSURANCE RATE REGULATION**

**§431: -101 Scope and purpose.** (a) This article shall apply to all types of health insurance offered by managed care plans.

(b) The purpose of this article is to promote the public welfare by regulating health insurance rates to the end that they shall not be excessive, inadequate, or unfairly discriminatory. Nothing in this article is intended to:

- (1) Prohibit or discourage reasonable competition; or
- (2) Prohibit or encourage, except to the extent necessary to accomplish the aforementioned purposes, uniformity in insurance rates, rating systems, rating plans, or practices.

This article shall be liberally interpreted to carry into effect this section.

**§431: -102 Definitions.** As used in this article:

“Commissioner” means the insurance commissioner.

“Enrollee” means a person who enters into a contractual relationship or who is provided with health care services or benefits through a managed care plan.

“Managed care plan” or “plan” means a health plan as defined in section 431:10A, or chapter 432 or 432D, regardless of form, offered or administered by a health care insurer, including but not limited to a mutual benefit society or health maintenance organization, or voluntary employee beneficiary associations, but shall not include disability insurers licensed under chapter 431.

“Rate” means every rate, charge, classification, schedule, practice, or rule. The definition of “rate” excludes fees and fee schedules paid by the insurer to providers of services covered under this article.

“Supplementary rating information” includes any manual or plan of rates, classification, rating schedule, minimum premium, policy fee, rating rule, underwriting rule, statistical plan, and any other similar information needed to determine the applicable rates in effect or to be in effect.

“Supporting information” means:

- (1) The experience and judgment of the filer and the experience or data of other organizations relied on by the filer;
- (2) The interpretation of any other data relied upon by the filer; and
- (3) Descriptions of methods used in making the rates and any other information required by the commissioner to be filed.

**§431: -103 Making of rates.** (a) Rates shall not be excessive, inadequate, or unfairly discriminatory and shall be reasonable in relation to the costs of the benefits provided.

(b) Except to the extent necessary to meet subsection (a), uniformity among managed care plans in any matters within the scope of this section shall be neither required nor prohibited.

**§431: -104 Rate adjustment mandates.** (a) Except as otherwise provided by law, the commissioner may mandate filings for health insurance under section 431: -105 when the commissioner has actuarially sound information that current rates may be excessive, inadequate, or unfairly discriminatory.

(b) Managed care plans shall submit the rate filings within one hundred twenty days of the commissioner's mandate.

(c) The rate filings shall be subject to the rate filing requirements under section 431: -105.

**§431: -105 Rate filings.** (a) Every managed care plan shall file in triplicate with the commissioner, every rate, charge, classification, schedule, practice, or rule and every modification of any of the foregoing that it proposes to use. Every filing shall state its proposed effective date and shall indicate the character and extent of the coverage contemplated. The filing also shall include a report on investment income.

(b) Each filing shall be accompanied by a \$50 fee payable to the commissioner and shall be deposited in the commissioner's education and training fund.

(c) At the same time as the filing of the rate, every managed care plan shall file all supplementary rating and supporting information to be used in support of or in conjunction with a rate. The managed care plan may satisfy its obligation to file supplementary rating and supporting information by reference to material that has been approved by the commissioner. The information furnished in support of a filing may include or consist of a reference to:

- (1) Its interpretation of any statistical data upon which it relies;
- (2) The experience of other managed care plans; or
- (3) Any other relevant factors.

(d) When a filing is not accompanied by supporting information or the commissioner does not have sufficient information to determine whether the filing meets the requirements of this article, the commissioner shall require the managed care plan to furnish additional information and, in that event, the waiting period shall commence as of the date the information is furnished. Until the requested information is provided, the filing shall not be deemed complete or filed and the filing shall not be used by the managed care plan. If the requested information is not provided within a reasonable time period, the filing may be returned to the managed care plan as not filed and not available for use. Rates shall be open to public inspection upon filing with the commissioner; provided that the commissioner establishes rules to ensure that confidential and proprietary information is protected and shall not be subject to public inspection.

(e) Rates shall be established in accordance with actuarial principles, based on reasonable assumptions, and supported by adequate supporting and supplementary rating information. After reviewing a managed care plan's filing, the commissioner may require that the managed care plan's rates be based upon the managed care plan's own loss and expense information.

(f) The commissioner shall review filings promptly after the filings have been made to determine whether the filings meet the requirements of this article.

(g) Except as provided herein, each filing shall be on file for a waiting period of sixty days before the filing becomes effective. The period may be extended by the

commissioner for an additional period not to exceed fifteen days if the commissioner gives written notice within the waiting period to the managed care plan that made the filing, that the commissioner needs the additional time for the consideration of the filing. Upon written application by the managed care plan, the commissioner may authorize a filing that the commissioner has reviewed, to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this article unless disapproved by the commissioner, as provided in section 431: -107, within the waiting period or any extension thereof. The rates shall be deemed to meet the requirements of this article until the time the commissioner reviews the filing and so long as the filing remains in effect.

(h) If the commissioner finds that a filing does not meet the requirements of this article, the commissioner, as provided in section 431: -107, shall send the managed care plan a notice of disapproval within the applicable sixty-day period or fifteen-day extension provided by subsection (g).

(i) The commissioner, by written order, may suspend or modify the requirement of filing as to any class of health insurance, subdivision, or combination thereof, or as to classes of risks, the rates which cannot practicably be filed before they are used. The order shall be made known to the affected managed care plan. The commissioner may make examinations that the commissioner deems advisable to ascertain whether any rates affected by the order meet the standards set forth in section 431: -103.

(j) No managed care plan shall make or issue a contract or policy except in accordance with filings that are in effect for the managed care plan as provided in this article.

(k) The commissioner may make the following rate effective when filed: any special filing with respect to any class of health insurance, subdivision, or combination thereof that is subject to individual risk premium modification and has been agreed to under a formal or informal bid process.

(l) For managed care plans having annual premium revenues of less than \$10,000,000, the commissioner may adopt rules and procedures that will provide the commissioner with sufficient facts necessary to determine the reasonableness of the proposed rates without unduly burdening the managed care plan and its enrollees; provided that the rates meet the standards of section 431: -103.

(m) Subsections (a) through (l) shall not apply to third party administrator services, prepaid dental insurance offered by managed care plans, prepaid vision insurance offered by managed care plans and disability insurers licensed under chapter 431. For managed care plans with rates based totally or in part on the individual group's claims experience, insurers subject to this subsection shall submit to the commissioner for approval descriptions of the methodology to be used in creating rates and every modification thereof that it proposes to use. The description of methodology shall contain specific information allowing a determination of rates that meet the standards of section 431: -103(a) and supporting information and justification. Every filing shall state its proposed effective date and shall indicate the character and extent of the coverage contemplated. Complete supporting and supplementary rating information for rates shall be maintained and made available to the commissioner upon request.

**§431: -106 Policy revisions that alter coverage.** All plan revisions that alter coverage in any manner shall be filed with the commissioner. After review by the commissioner, the commissioner shall determine whether a rate filing for the plan revision must be submitted in accordance with section 431: -105.

**§431: -107 Disapproval of filings.** (a) If, within the waiting period or any extension of the waiting period as provided in section 431: -105, the commissioner

finds that a filing does not meet the requirements of this article, the commissioner shall send to the managed care plan that made the filing, written notice of disapproval of the filing specifying in what respects the filing fails to meet the requirements of this article, specifying the actuarial, statutory, and regulatory basis for the disapproval, including an explanation of the application thereof that resulted in disapproval, and stating that the filing shall not become effective.

(b) Whenever a managed care plan has no legally effective rates as a result of the commissioner's disapproval of rates, a finding pursuant to subsection (c) that a filing is no longer effective, or other act, interim rates shall be established within ten days of disapproval, or other act, as follows:

- (1) The commissioner shall specify interim rates sufficient to protect the interests of the managed care plan and its enrollees, ensure the solvency of the managed care plan, maintain the plan's health care delivery, and prevent any impairment of enrollees' health care benefits. When a new rate becomes legally effective and the new rate is higher than the interim rate, the commissioner shall allow the managed care plan to retroactively adjust the premiums to the time when the interim rate was first imposed. If the new rate is lower than the interim rate, the commissioner may order that the difference be applied to stabilize future rates or be refunded to current enrollees of the managed care plan;
- (2) If a filing is disapproved, in whole or in part, a petition and demand for a contested case hearing may be filed in accordance with chapter 91. The managed care plan shall have the burden of proving that the disapproval is not justified; or
- (3) If a filing is approved, a contested case hearing in accordance with chapter 91 may be convened pursuant to subsection (c) to determine if the approved rates comply with the requirements of this article. If an appeal is taken from the commissioner's approval or if subsequent to the approval the commissioner convenes a hearing pursuant to subsection (c), the filing of the appeal or the commissioner's notice of hearing shall not stay the implementation of the rates approved by the commissioner, or the rates currently in effect, whichever is higher.

(c) If at any time subsequent to the applicable review period provided for in section 431: -105, the commissioner finds that a filing does not comply with the requirements of this article, the commissioner shall order a hearing upon the filing. The hearing shall be held upon not less than ten days' written notice to every managed care plan that made such a filing. The notice shall specify the matters to be considered at the hearing and state the specific factual and legal grounds to support the commissioner's finding of noncompliance. If, after a hearing the commissioner finds that a filing does not meet the requirements of this article, the commissioner within thirty days of the hearing, shall issue an order specifying in what respects the filing fails to meet the requirements, and stating when, within a reasonable period thereafter, the filing shall be deemed no longer effective. Copies of the order shall be sent to each managed care plan whose rates are affected by the order. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

- (d)(1) Any enrollee of a managed care plan or organization that purchases health insurance from a managed care plan aggrieved with respect to any filing that is in effect may make a written demand to the commissioner for a hearing thereon; provided that the managed care plan that made the filing shall not be authorized to proceed under this subsection;
- (2) The demand shall specify the grounds to be relied upon by the aggrieved enrollee or organization and the demand shall show that the

enrollee or organization has a specific economic interest affected by the filing;

- (3) If the commissioner finds that:
  - (A) The demand is made in good faith;
  - (B) The applicant would be so aggrieved if the enrollee's or organization's grounds are established; and
  - (C) The grounds otherwise justify a hearing;the commissioner, within thirty days after receipt of the demand, shall hold a hearing. The hearing shall be held upon not less than ten days' written notice to the aggrieved party and to every managed care plan that made the filing. The aggrieved party shall bear the burden of proving that the filing fails to meet the standards set forth in section 431: -103; and
- (4) If, after the hearing, the commissioner finds that the filing does not meet the requirements of this article, the commissioner shall issue an order specifying in what respects the filing fails to meet the requirements of this article, and stating when, within a reasonable period, the filing shall be deemed no longer effective. Copies of the order shall be sent to the applicant and to every affected managed care plan. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

(e) The notices, hearings, orders, and appeals referred to in this section, in all applicable respects, shall be subject to chapter 91, unless expressly provided otherwise.

**§431: -108 Managed care plans; prohibited activity.** (a) Except as permitted in this article, no managed care plan shall:

- (1) Attempt to monopolize, or combine or conspire with any other person to monopolize an insurance market; or
  - (2) Engage in a boycott, on a concerted basis, of an insurance market.
- (b) Except as permitted in this article, no managed care plan shall make any arrangement with any other person that has the purpose or effect of restraining trade unreasonably or of substantially lessening competition in the business of insurance.

**§431: -109 Information to be furnished enrollees; hearings and appeals of enrollees.** Every managed care plan that makes its own rates, within a reasonable time after receiving written request therefore and upon payment of reasonable charges as it may make, shall furnish to any enrollee affected by a rate made by it or to the authorized representative of the enrollee, all pertinent information as to the rate; provided that the managed care plan shall not be required to disclose supporting information and supplementary rating information protected pursuant to section 431: -105(d).

**§431: -110 False or misleading information.** No person or organization shall wilfully withhold information from or knowingly give false or misleading information to the commissioner, any statistical agency designated by the commissioner, or any managed care plan, which will affect the rates or premiums chargeable under this article. Violation of this section shall subject the one guilty of the violation to the penalties provided in section 431: -111.

**§431: -111 Penalties.** (a) If the commissioner finds that any person or organization has violated any provision of this article, the commissioner may impose a penalty of not more than \$500 for each violation; provided that if the commissioner finds the violation to be wilful, the commissioner may impose a penalty of not more

than \$5,000 for each violation. The penalties may be in addition to any other penalty provided by law. For purposes of this section, any managed care plan using a rate for which the managed care plan has failed to file the rate, supplementary rating information, underwriting rules or guides, or supporting information as required by this article, shall have committed a separate violation for each day the failure to file continues.

(b) The commissioner may suspend the license or operating authority of any managed care plan that fails to comply with an order of the commissioner within the time limited by the order, or any extension thereof that the commissioner may grant. The commissioner shall not suspend the license of any managed care plan for failure to comply with an order until the time prescribed for an appeal from the order has expired or, if an appeal has been taken, until the order has been affirmed. The commissioner may determine when a suspension of license or operating authority shall become effective and it shall remain in effect for the period fixed by the commissioner unless the commissioner modifies or rescinds the suspension, or until the order upon which the suspension is based is modified, rescinded, or reversed.

(c) No penalty shall be imposed and no license or operating authority shall be suspended or revoked except upon a written order of the commissioner, stating the commissioner's findings, made after a hearing held upon not less than ten days' written notice to the person or organization. The notice shall specify the alleged violation.

**§431: -112 Hearing procedure and judicial review.** (a) Any managed care plan aggrieved by any order or decision of the commissioner made without a hearing, within thirty days after notice of the order to the managed care plan, may make written request to the commissioner for a hearing. The commissioner shall hold a hearing within twenty days after receipt of the request, and shall give not less than ten days' written notice of the time and place of the hearing. The commissioner shall promptly conduct and complete the hearing. Within fifteen days after the hearing is completed, the commissioner shall affirm, reverse, or modify the commissioner's previous action, specifying the reasons for the commissioner's decision. Pending the hearing and decision, the commissioner may suspend or postpone the effective date of the commissioner's previous action.

(b) Any final order or decision of the commissioner may be reviewed in the circuit court of the first circuit and an appeal from the decision of the court shall lie to the supreme court. The review shall be taken and had in the manner provided in chapter 91."

SECTION 3. Section 432:1-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Article 2 [~~and~~], article 13, and article \_\_\_ of chapter 431, and the powers there granted to the commissioner, shall apply to managed care plans, health maintenance organizations, or medical indemnity or hospital service associations, which are owned or controlled by mutual benefit societies, so long as [~~such~~] the application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations."

SECTION 4. Section 432D-19, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Article 2 [~~and~~], article 13, and article \_\_\_ of chapter 431, and the power there granted to the commissioner, shall apply to health maintenance organizations, so long as [~~such~~] the application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations."

## ACT 176

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

SECTION 6. This Act shall take effect on January 1, 2008.

(Approved June 13, 2007.)

## ACT 176

S.B. NO. 58

A Bill for an Act Relating to Dentists.

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

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

**“§448-1 Dentistry defined; exempted practices.** A person practices dentistry, within the meaning of this chapter, who represents oneself as being able to diagnose, treat, operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, alveolar process, gums, or jaw, or who offers or undertakes by any means or methods to diagnose, treat, operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the same, or to take impressions of the teeth or jaws; or who owns, maintains, or operates an office for the practice of dentistry; or who engages in any of the practices included in the curricula of recognized and approved dental schools or colleges. Dentistry includes that part of health care concerned with the diagnosis, prevention, and treatment of diseases of the teeth, oral cavity, and associated structures including the restoration of defective or missing teeth. The fact that a person uses any dental degree, or designation, or any card, device, directory, poster, sign, or other media whereby one represents oneself to be a dentist, shall be prima facie evidence that the person is engaged in the practice of dentistry.

The following practices, acts, and operations, however, are exempt from the operation of this chapter:

- (1) The rendering of dental relief in emergency cases in the practice of one's profession by a physician or surgeon, licensed as such and registered under the laws of this State, unless one undertakes to reproduce or reproduces lost parts of the human teeth in the mouth or to restore or replace in the human mouth lost or missing teeth;
- (2) The practice of dentistry in the discharge of their official duties by dentists in the United States Army, the United States Navy, the United States Air Force, the United States Public Health Service, or the United States Veterans Administration;
- (3) The practice of dentistry by licensed dentists of other states or countries at meetings of the Hawaii Dental Association or component parts thereof, alumni meetings of dental colleges, or any other like dental organizations, while appearing as clinicians;
- (4) The use of roentgen and other rays for making radiograms or similar records of dental or oral tissues; [and]
- (5) The making of artificial restorations, substitutes, appliances, or materials for the correction of disease, loss, deformity, malposition, dislocation, fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues, or parts, upon orders, prescription, casts, models, or from impressions furnished by a Hawaii licensed dentist[.]; and

- (6) The ownership and management of a dental practice by the executor or administrator of a dentist's estate or the legal guardian or authorized representative of a dentist, where the licensed dentist has died or is incapacitated, for the purpose of winding down, transferring, or selling the practice, for a period not to exceed one year from the time of death or from the date the dentist is declared incapacitated; provided that all other aspects of the practice of dentistry are performed by one or more licensed dentists."

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

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

(Approved June 13, 2007.)

## ACT 177

H.B. NO. 1005

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

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

SECTION 1. (a) Progressive energy policy-making at the state level is one of the most important issues on the current legislative agenda. Improving the performance of regulatory bodies, specifically the public utilities commission, is essential to the successful implementation of current and future energy policy reform. Recent legislation relies on professional staff in the public utilities commission to use their skills and experience to research, analyze, examine, and process legislative mandates related to the commission.

The current organization of the public utilities commission has not kept up with recent legislative initiatives, diminishing the ability of the public utilities commission to perform effectively in the following ways:

- (1) Difficulty recruiting and retaining qualified individuals to fill specialized positions that require skills and experience that involve the performance of certain functions;
- (2) Specialized job requirements that do not correspond with existing position descriptions and classifications;
- (3) Bureaucratic obstacles in changing existing position descriptions and classifications;
- (4) Salaries that are substantially below mainland agency or private-sector equivalents, especially considering the demanding and arduous job requirements; and
- (5) Agency organizational structures that are archaic and unsupportive of efficient work flow or the matching of human resources to the required tasks.

(b) Act 143, Session Laws of Hawaii 2006, was passed to obtain an in-depth review of the public utility commission's organization and to develop a comprehensive plan to effectively restructure the commission and enable the commission to function more effectively. A report was submitted by the public utilities commission to the legislature in December 2006, detailing the challenges and obstacles faced by the commission, the restructuring plan to improve the operational effectiveness of the commission, and the specific types and numbers of positions and other funding

amounts necessary to restructure the commission. The restructuring plan developed by the public utilities commission is intended to, among other things:

- (1) Increase and enhance the commission's policy analysis and research capabilities;
  - (2) Create regulated industry-specific professional positions to allow for focused expertise and cross-functional workgroups;
  - (3) Allow professional staff to focus and specialize in critical industries, while retaining the flexibility to adapt to changes in markets and environments; and
  - (4) Update the organization to accurately reflect current and foreseeable functional requirements, as well as to enhance the commission's focus on customer issues and concerns.
- (c) The purpose of this Act is to enhance the ability of the public utilities commission to carry out its duties and responsibilities by:
- (1) Requiring the commission to restructure its operations pursuant to the commission's December 2006, report to the legislature, to improve its effectiveness and efficiency; and
  - (2) Authorizing the public utilities commission to consider the need for increased renewable energy use in exercising its authority and duties.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§269- Consideration of renewable energy.** The public utilities commission may consider the need for increased renewable energy use in exercising its authority and duties under this chapter.”

SECTION 3. Section 269-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The chairperson of the public utilities commission may appoint and employ clerks, stenographers, agents, engineers, accountants, and other assistants for the public utilities commission as the chairperson finds necessary for the performance of the commission's functions and define their powers and duties. The chairperson may appoint and, at pleasure, dismiss a chief administrator and hearings officers as may be necessary. Notwithstanding section [§]103D-209[3], the chairperson shall appoint one or more attorneys independent of the attorney general who shall act as attorneys for the commission and define their powers and duties and fix their compensation. The chief administrator, chief of policy and research, chief of administrative support, chief of consumer affairs and compliance, utility analysts, and attorneys shall be exempt from chapter 76. Research assistants, economists, legal secretaries, [utility analysts,] legal assistants, and enforcement officers may be appointed with or without regard to chapter 76. Other employees shall be appointed as may be needed by the chairperson in accordance with chapter 76.”

SECTION 4. (a) The public utilities commission shall restructure its operations as provided for in part IV of the public utilities commission's report to the legislature required pursuant to Act 143, Session Laws of Hawaii, 2006.

- (b) The restructuring shall include the following:
- (1) The existing research section shall be expanded to include policy support positions and functions, and shall be renamed the office of policy and research;

- (2) The consumer affairs and compliance section shall be responsible for consumer relations and investigation and enforcement activities of the public utilities commission;
- (3) The administrative support section shall be supervised by the chief of administrative support and shall be comprised of clerical services staff, case management services staff, fiscal services staff, and information technology staff;
- (4) Staffing shall be increased with the addition of the following positions:
  - (A) For fiscal year 2008-2009:
    - (i) A public utilities commission attorney shall be responsible for providing, among other things, legal support in petroleum dockets and initiatives statewide, and for complaint and inquiry handling;
    - (ii) A legal assistant shall assist the chief counsel in all facets of legal work;
    - (iii) A data processing systems analyst V shall be responsible for supervising information technology services staff, administering the document and docket management system, and assisting with petroleum monitoring system database management;
    - (iv) A legal clerk shall be responsible for case management services clerical support, assisting the chief clerk, and performing duties as citation clerk;
    - (v) An auditor VI shall be responsible for energy and petroleum dockets and issues and for conducting field audit inspections;
    - (vi) An engineer V shall be responsible for energy and petroleum dockets and issues, energy utility field inspections, and informal inquiry handling; and
    - (vii) A chief of consumer affairs and compliance shall be responsible for supervising the consumer affairs and compliance section; and
  - (B) For fiscal year 2009-2010:
    - (i) A public utilities commission attorney shall be responsible for legal support in telecommunications, dockets and issues, legislative and rulemaking initiatives, drafting and updating rules, and serving as a hearings officer;
    - (ii) A legal clerk shall be responsible for case management services clerical support, assisting the chief clerk, and performing duties as citations clerk;
    - (iii) An account clerk III shall be responsible for handling the pCard system, maintaining physical inventory, keeping fiscal records, and providing fiscal support for the commission;
    - (iv) An auditor VI shall be responsible for telecommunications and utility dockets and related issues and conducting field audit inspections;
    - (v) An engineer V shall be responsible for telecommunications and utility dockets and related issues, telecommunications and utility field inspections, and pipeline safety inspection; and
    - (vi) Two research assistants shall be responsible for docket, non-docket, legislative, and industry research, analysis, and reporting;

- (5) Twelve existing positions shall be redescribed as follows:
  - (A) An existing attorney shall be redescribed as chief counsel to accurately reflect supervisory functions of this position, including responsibility and management of the office of commission counsel, acting as a counsel to the commission, and handling commission-related media correspondence;
  - (B) An existing research assistant position shall be redescribed as chief of administrative support to accurately reflect the administrative responsibilities of the position, including supervising clerical, case management, fiscal, and information technology staff;
  - (C) An existing chief researcher shall be redescribed as chief of policy and research to accurately represent the additional responsibilities of the policy arm of the policy and research services section. The chief of policy and research shall manage the utility analysts, research assistants, and economists; advise the commission on all regulated-industry-related matters and government policy; and oversee legislative initiatives, media relations, and special projects;
  - (D) The chief engineer shall be increased from level V to level VI to enable the commission to recruit for the position at a higher level and to allow staff level engineers to move to level V;
  - (E) The existing legal stenographer shall be redescribed as a legal assistant to update this position since stenographers are no longer recruited due to outdated position descriptions;
  - (F) The existing clerk typist III position shall be redescribed as a legal clerk to elevate the qualifications of the position and to help meet new functional requirements, including maintenance of a new document and docket management systems and increased citation activity;
  - (G) An existing research assistant position shall be redescribed as an investigator V to accurately reflect senior-level responsibilities of the position; and
  - (H) Five existing research assistants shall be redescribed as utility analysts to allow for increased industry expertise and focus necessary for the new policy-making function of the policy and research section;
- (6) The following temporary positions, relating to gas cap and petroleum monitoring, shall be converted to permanent positions to promote successful recruitment and retention of qualified individuals:
  - (A) Public utilities commission economist;
  - (B) Public utilities commission attorney;
  - (C) Two utility analysts (previously research assistants);
  - (D) Clerk typist II;
  - (E) Enforcement officer; and
  - (F) Secretary I; and
- (7) Additional office space shall be leased and the office relocated.

(c) Upon request by the public utilities commission, all other state and county agencies shall assist the public utilities commission in carrying out the provisions of this Act. The department of human resources development shall work cooperatively with the public utilities commission in renaming or re-describing job descriptions as is deemed necessary by the public utilities commission.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved June 13, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 178**

H.B. NO. 367

A Bill for an Act Relating to Substance Abuse.

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

SECTION 1. Medical personnel, particularly in emergency rooms and trauma centers, regularly encounter patients who have sustained injuries or trauma resulting from the use of alcohol or other drugs. This initial point of contact in a medical setting is a recognized window of opportunity where patients are most vulnerable and open to intervention and dialogue that address their underlying alcohol or illegal drug issues. It is at this “teachable moment” that individuals can benefit from an assessment, education, counseling, or if necessary, referral to treatment.

The medical personnel working in the “screening, brief intervention, referral, and treatment” program may seize this “teachable moment” in medical settings by offering screening, brief intervention, education, and if necessary, referrals to appropriate care or treatment for individuals at risk for, or diagnosed with, alcohol and other substance use disorders.

This evidence-based, cost-effective program is recognized as a best practice model by the Substance Abuse and Mental Health Services Administration, an agency of the United States Department of Health and Human Services. Successful screening, brief intervention, referral, and treatment programs have been implemented and are ongoing in other states, including California, Alaska, Illinois, New Mexico, Pennsylvania, Texas, and Washington. Evidence from existing screening, brief intervention, referral, and treatment programs conducted in medical settings has shown dramatic reductions in alcohol and other drug use among patients receiving services.

The purpose of this Act is to establish and fund a pilot program for screening, brief intervention, and referral to substance abuse treatment in the State.

SECTION 2. (a) There is established a two-year pilot program for screening, brief intervention, and referral to substance abuse treatment, which shall be sited at the emergency department of a major urban medical facility in Honolulu or any other facility deemed appropriate by the administering agency.

(b) The University of Hawaii John A. Burns school of medicine shall establish and administer the pilot program.

(c) The University of Hawaii John A. Burns school of medicine shall submit a report to the legislature concerning the status of the pilot program and make findings and recommendations, including proposed legislation and whether to continue the program, not later than twenty days before the convening of the regular sessions of 2008 and 2009.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$84,000 or so much thereof as may be necessary for fiscal year 2007-2008 to implement a pilot program in the emergency department of a major

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medical facility in Honolulu or other appropriate facility for screening, brief intervention, and referral to substance abuse treatment.

The sums appropriated shall be expended by the University of Hawaii, through its John A. Burns school of medicine, for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved June 14, 2007.)

ACT 179

H.B. NO. 964

A Bill for an Act Relating to Substance Abuse.

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

SECTION 1. Section 329B-2, Hawaii Revised Statutes, is amended by amending the definitions of “substance abuse on-site screening test” and “substance abuse test” to read as follows:

““Substance abuse on-site screening test” means a portable substance abuse test that meets the requirements of the United States Food and Drug Administration for commercial distribution ~~[and is approved by the director for such pre-employment screening.]~~ or is manufactured by a facility that is minimally certified as meeting the ISO 13485 standard established by the international organization for standardization and which may be used by an employer in the workplace.

“Substance abuse test” means any testing procedure designed to take and analyze body fluids or materials from the body for the purpose of measuring the amount of drugs, alcohol, or the metabolites of drugs in the sample tested. ~~[The term includes any substance abuse on-site screening test designed to take and analyze body fluids or materials from the body for the purpose of detecting the presence of drugs, alcohol, or the metabolites of drugs in the sample tested.]”~~

SECTION 2. Section 329B-5.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[E]§329B-5.5[H]~~ **Substance abuse on-site screening tests, testing procedures, and confidentiality.** The substance abuse on-site screening test shall be administered ~~[for pre-employment purposes only]~~ according to the instructions of the manufacturer and this section:

- (1) Every employer using a substance abuse on-site screening test ~~[for pre-employment screening shall administer the test according to the United States Food and Drug Administration package insert that accompanies the substance abuse test, and shall adhere to any applicable on-site screening drug test guidelines adopted by the United States Food and Drug Administration. Any on-site screening test shall also be approved by the director for such pre-employment screening;]~~ shall administer the test according to the package insert that accompanies the substance abuse on-site screening test;
- (2) ~~[Every employer using a substance abuse on-site screening test for pre-employment screening shall adhere to the rules adopted pursuant to section 329B-8 pertaining to specimen collection, urine specimen, shipping of specimens, chain of custody, and confidentiality that may be applicable to on-site drug testing;]~~ Any indication of the presence of

- drugs, alcohol, or the metabolites of drugs by the substance abuse on-site screening test shall not be used to deny or deprive a person of employment or any benefit, or result in any adverse action against the employee or prospective employee, unless a substance abuse test is conducted according to section 329B-5 and the requirements of paragraph (3) are met;
- (3) [If a substance abuse on-site screening test obtains a test result that indicates the presence of drugs, alcohol, or the metabolites of drugs; and if the test result may be used to deny or deprive a person of employment or any benefit, or may otherwise result in an adverse action being taken against the person, then the same sample that produced the test result shall be submitted for a confirmatory test to a testing laboratory licensed or approved by the department in accordance with this chapter. A positive confirmatory test shall be reviewed by a medical review officer licensed by the department in accordance with this chapter; and] Upon the indication of the presence of drugs, alcohol, or the metabolites of drugs by the substance abuse on-site screening test, the employer shall have the employee or prospective employee report within four hours to a laboratory licensed by the department under section 329B-4 and be tested under section 329B-5. The employer shall bear the cost of the laboratory referral. An employee or prospective employee who fails to report for the substance abuse test may be denied or deprived of employment or any benefit, or have adverse action taken against the employee or prospective employee for refusing or failing to report for the substance abuse test; provided that the employer has provided to the employee or prospective employee written notice stating that:
- (A) At the time of the substance abuse on-site screening test, the employer followed the procedures under section 329B-5.5;
- (B) The employee or prospective employee was informed that the employee or prospective employee may refuse to submit to the substance abuse test; and
- (C) If the employee or prospective employee refuses or fails to submit to the substance abuse test, the employer may take adverse employment action against the employee or prospective employee;
- (4) The operator who administers the substance abuse on-site screening test shall have been trained in the use and administering of the on-site screening test by the manufacturer of the on-site screening test or the manufacturer's designee[-]; and
- (5) Any information concerning the substance abuse on-site screening test shall be strictly confidential. Such information shall not be released to anyone without the informed written consent of the individual tested and shall not be released or made public upon subpoena or any other method of discovery, except that information relating to a positive on-site screening test result of an individual shall be disclosed to the individual, a third party, the laboratory to which the individual is referred, and the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual tested and arising from the positive on-site screening test result."

SECTION 3. Section 378-32, Hawaii Revised Statutes, is amended to read as follows:

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**“§378-32 Unlawful suspension, discharge, or discrimination.** It shall be unlawful for any employer to suspend, discharge, or discriminate against any of the employer’s employees:

- (1) Solely because the employer was summoned as a garnishee in a cause where the employee is the debtor or because the employee has filed a petition in proceedings for a wage earner plan under Chapter XIII of the Bankruptcy Act; or
- (2) Solely because the employee has suffered a work injury which arose out of and in the course of the employee’s employment with the employer and which is compensable under chapter 386 unless the employee is no longer capable of performing the employee’s work as a result of the work injury and the employer has no other available work which the employee is capable of performing. Any employee who is discharged because of the work injury shall be given first preference of reemployment by the employer in any position which the employee is capable of performing and which becomes available after the discharge and during the period thereafter until the employee secures new employment. This paragraph shall not apply to any employer in whose employment there are less than three employees at the time of the work injury or who is a party to a collective bargaining agreement which prevents the continued employment or reemployment of the injured employee; [øf]
- (3) Because the employee testified or was subpoenaed to testify in a proceeding under this part[-]; or
- (4) Because an employee tested positive for the presence of drugs, alcohol, or the metabolites of drugs in a substance abuse on-site screening test conducted in accordance with section 329B-5.5; provided that this provision shall not apply to an employee who fails or refuses to report to a laboratory for a substance abuse test pursuant to section 329B-5.5.”

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

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved June 14, 2007.)

**ACT 180**

H.B. NO. 1614

A Bill for an Act Relating to Drugs.

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

SECTION 1. The legislature finds that, since the formation of the drug nuisance abatement unit of the department of the attorney general in July 2003, the unit has performed well in abating drug nuisances by directly and informally working with the owners of buildings to remove drug dealers and by filing civil lawsuits that seek to prohibit drug dealers from remaining in drug houses. Of the one thousand one hundred ninety-two complaints received by the department of the attorney general from the community about illegal drug activities and drug houses since 2003, six hundred forty-five cases have been closed due to the efforts of the unit. Among the accomplishments of the unit are:

- (1) Improving coordination with other law enforcement agencies;

- (2) Decreasing the backlog of complaints;
- (3) Increasing the number of drug nuisance abatements; and
- (4) Raising community awareness of the drug nuisance abatement process.

The purpose of this Act is to appropriate funds to continue the enforcement and prosecution of drug nuisance abatement laws.

SECTION 2. 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 2007-2008 to fund 1.5 investigator positions and 1.0 clerk typist position for salaries and other costs for these positions in the drug nuisance abatement unit of the department of attorney general.

The sum appropriated shall be expended by the drug nuisance abatement unit of the department of the attorney general for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2007.

(Approved June 14, 2007.)

## ACT 181

H.B. NO. 349

A Bill for an Act Relating to County Regulation of Commercial Bicycle Tours.

*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- Regulation of commercial bicycle tours.** Any law to the contrary notwithstanding, the council of any county may adopt and provide for the enforcement of ordinances regulating commercial bicycle tours on state and county highways, including but not limited to ordinances relating to the number of tours, the number of bicycles within a tour, scheduling of tours, physical spacing of tours, rules of the road, health and safety requirements, equipment maintenance, driver and guide qualifications, driver and guide drug testing, accident procedures and reporting, and financial responsibility requirements. Each county shall follow federal guidelines for commercial bicycle tours that begin from federal or state parks and continue on to state highways.

For the purposes of this section:

“Bicycle tour” includes both guided bicycle tours and unguided bicycle rental operations.

“County highway” has the same meaning as defined in section 264-1.

“State highway” has the same meaning as defined in section 264-1.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved June 15, 2007.)

### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Petroleum Industry Monitoring.

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

SECTION 1. Chapter 486B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§486B-A Monitoring of petroleum industry information.** The public utilities commission shall refer to the attorney general any matter that is a violation of this chapter that is discovered in the performance of its duties pursuant to chapter 486H or 486J.”

SECTION 2. Chapter 486J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§486J-A Use and analysis of information by the department of business, economic development, and tourism.** The department, with its own staff and other support staff with relevant expertise and experience, shall use the information obtained under this chapter to effectuate the purposes of chapters 125C, 196, and other relevant laws.”

SECTION 3. Section 486J-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

““Major fuel user” means any person who uses fuel in the manufacture of products or for the generation of power in amounts determined by the commission as having a major effect on energy supplies.”

2. By amending the definitions of “distributor”, “major marketer”, “major oil producer”, “major oil storer”, and “major oil transporter” to read:

““Distributor” means:

- (1) Every person who refines, manufactures, produces, or compounds fuel in the State and sells it at wholesale or at retail [~~or who uses it directly in the manufacture of products or for the generation of power~~];
- (2) Every person who imports or causes to be imported into the State, or exports or causes to be exported from the State, any fuel;
- (3) Every person who acquires fuel through exchanges with another distributor; or
- (4) Every person who purchases fuel for resale at wholesale or retail from any person described in paragraph (1), (2), or (3); provided that “distributor” shall not include a marina, lessee dealer-operated station, owner-operated station, or other retailer that retails fuel only to end users or the public.

“Major marketer” means any person who sells natural gas, propane, synthetic natural gas, or oil in amounts determined by the [department] commission as having a major effect on energy supplies.

“Major oil producer” means any person who produces oil in amounts determined by the [department] commission as having a major effect on energy supplies.

“Major oil storer” means any person who stores oil or other petroleum products in amounts determined by the [department] commission as having a major effect on energy supplies.

“Major oil transporter” means any person who transports oil or other petroleum products in amounts determined by the [department] commission as having a major effect on energy supplies.”

SECTION 4. Section 486J-3, Hawaii Revised Statutes, is amended to read as follows:

**“§486J-3 Statements.** (a) Each week every distributor~~[, on the reporting dates as the commission may establish,]~~ and major fuel user shall file with the commission, on forms prescribed, prepared, and furnished by the commission, a certified statement showing on a statewide consolidated basis, and separately for each county and for the islands of Lanai and Molokai within which and whereon fuel is sold or used during the last preceding reporting week, the following:

- (1) The total number of gallons or units of fuel, by type or grade, refined, manufactured, or compounded by the distributor within the State and, if for ultimate sale or consumption in another county or on another island, the number of gallons or units of fuel, by type or grade, sold, exchanged, or otherwise transferred or used by the distributor in each county or island;
- (2) The total number of gallons or units of fuel, by type or grade, imported or exported by the distributor; the total volumes of fuel, by type or grade, sold, exchanged, or otherwise transferred or used by the distributor; and if for ultimate sale or consumption in another county or on another island, the number of gallons or units of fuel, by type or grade, sold, exchanged, or otherwise transferred or used by the distributor in each county or island;
- (3) The total number of gallons or units of fuel sold as liquid fuel, aviation fuel, diesel fuel, and other types of fuel as required by the commission;
- (4) The total number of gallons or units of fuel, by type or grade, and their respective sales prices for all fuel sold to federal, state, and county agencies, ships stores, or base exchanges, commercial agricultural accounts, commercial nonagricultural accounts, retail dealers, and other customers as required by the commission;
- (5) Weekly weighted average acquisition cost per barrel and volumes of foreign or domestic crude oil or other liquid fuels, finished or unfinished, imported to Hawaii, including information identifying the source of the crude oil or other liquid fuels;
- (6) The effective date and time, and the amount of change in cents per gallon, of any increase or decrease in wholesale price occurring during the week and the weekly weighted average wholesale prices and sales volumes of finished unleaded regular and premium motor gasoline, and of each other grade of gasoline sold, by island, to retail outlets, by classes of retail trade, and to wholesale distributors;
- (7) Weekly weighted average retail prices, and sales volumes of finished unleaded regular and premium motor gasoline, and of each other grade of gasoline sold, by island, by retail distributor outlets of all classes of retail trade and by any distributor to other end-users; provided that the commission may purchase retail price data from data service companies that the commission may use to substitute some or all data to meet the reporting requirement for retail price data under this paragraph;

- (8) The effective date and time, and the amount of change in cents per gallon, of any increase or decrease in wholesale price occurring during the week and the weekly weighted average wholesale prices, and sales volumes of No. 2 diesel fuel and No. 2 fuel oil, by island, to retail distributor outlets, by classes of retail trade, and to all other wholesale distributors. Weighted average wholesale prices and sales volumes shall be reported by type of wholesale liquid fuel price;
- (9) Weekly weighted average retail prices, and sales volumes of No. 2 diesel fuel and No. 2 fuel oil sold, by island, by retail distributor outlets of all classes of retail trade and by any distributor to other end-users. The commission may purchase retail price data from data service companies that the commission may use to substitute some or all data to meet the reporting requirement for retail price data under this paragraph;
- (10) Weekly weighted average prices, and sales volumes for retail sales and wholesale sales, by island, of No. 1 distillate, kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4 fuel oil, residual fuel oil, and consumer grade propane;
- (11) For each distributor that is a refiner, the gross margins or spreads between a refiner's average weighted acquisition price for each gallon of crude oil and blendstock refined within the State and the average weighted prices for each gallon or unit of fuel sold, by county or island, to another distributor, a retail dealer, end-user, and consumer; ~~and~~
- (12) For each distributor that is not a refiner, the gross margins or spreads between the distributor's average weighted price for each gallon or unit of fuel acquired by the distributor and the average weighted prices for each gallon or unit of fuel sold, by county or island, to another distributor, a retail dealer, end-user, or consumer~~[-]; and~~
- (13) Revenues, expenses, profits and losses, and any other financial or operating information as may be required by the commission.

The commission shall prescribe applicable standards and practices for reporting to facilitate uniformity, consistency, and comparability of the data to be submitted.

(b) Each major marketer shall submit to the commission, at a time and in a form as the commission shall prescribe, information, including petroleum and petroleum product receipts, exchanges, inventories, and distributions.

(c) The commission may ~~request~~ require additional information as and when the commission deems necessary to perform the commission's responsibilities under this chapter.

(d) Information in the statements filed pursuant to this section shall be collected and maintained for the purpose of facilitating the analysis required by ~~[section 486J-5]; this chapter;~~ provided that the commission shall make the information available to the public [the information contained in the statements but not the statements themselves, as provided in], to the extent permitted under sections 486J-6 and 486J-8.

SECTION 5. Section 486J-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The commission may ~~request~~ require additional information as and when the commission deems ~~[it]~~ necessary to perform the commission's responsibilities under this chapter.”

SECTION 6. Section 486J-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each refiner, on a semi-annual basis, at reporting dates as the commission may establish, shall file with the commission, on forms prescribed, prepared, and furnished by the commission, a certified statement of operating and overhead costs for the refiner’s Hawaii operations that shall include but not be limited to the following:

- (1) Crude oil costs and sources;
- (2) Other feedstock costs and sources;
- (3) Refinery operating expenses;
- (4) Marketing operating expenses by petroleum product;
- (5) Distribution expenses by petroleum product; and
- (6) Corporate overhead expenses~~[- and~~
- (7) The percentage of the total number of wholesale gallons of unleaded regular and premium unleaded gasoline sold during the reporting period at wholesale prices per gallon that exceed the maximum pre-tax wholesale price calculated by the commission under section 486H-13].”

SECTION 7. Section 486J-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Confidential commercial information provided to the commission pursuant to this chapter that is exempt from public disclosure under section ~~[92F-13(4)]~~ 92F-13 shall be held in confidence by the commission or aggregated to the extent necessary in the commission’s discretion to ensure confidentiality as required by chapter 92F.

(b) No data or information submitted to the ~~[the] commission[.]~~ shall be deemed confidential if it is shown that the person submitting the information or data has made it public.”

SECTION 8. Section 486J-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any person, or any employee of any person, who wilfully makes any false statement, representation, or certification in any record, report, plan, or other document filed with the commission shall be subject to a civil penalty not to exceed \$500,000 and shall be deemed to have committed an unfair or deceptive act or practice in the conduct of a trade or commerce and subject to the penalties specified in ~~[chapter]~~ chapters 480[-] and 486B.”

SECTION 9. Section 486J-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) ~~[Notwithstanding any law to the contrary, including any other section of this chapter, no later than fourteen days after the reporting date established by the commission under section 486J-3, the]~~ The commission shall disclose to the public, using the best readily available technology, the information contained in the statements~~[- but not the statements themselves,]~~ that are filed pursuant to section 486J-3~~[-,]~~, except to the extent that disclosure is prohibited under section 486J-6. The commission shall publicly report this information within fourteen days pursuant to the reporting dates established by the commission under section 486J-3.”

SECTION 10. Section 486J-11, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]~~**§486J-11[.] Powers of the public utilities commission.** (a) The public utilities commission ~~[shall have the authority and power to]~~ may take any action or

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make any determination under this chapter, including but not limited to actions or determinations that affect persons not regulated under chapters 269, 271, and 271G, as the commission deems necessary to carry out its responsibilities or otherwise effectuate chapter 269, 271, or 271G.

(b) The public utilities commission may examine or investigate each distributor, the manner in which it is operated, its prices and rates, its operating costs and expenses, the value of its property and assets, the amount and disposition of its income, any of its financial transactions, its business relations with other persons, companies, or corporations, its compliance with all applicable state and federal laws, and all matters of any nature affecting the relations and transactions between the distributor and the public, persons, or businesses.

(c) In the performance of its duties under this chapter, the commission shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documents, examining witnesses, and punishing for contempt, as are possessed by the circuit courts. In case of disobedience by any person to any order of or subpoena issued by the commission, or of the refusal of any witness to testify to any matter regarding which the witness may be lawfully questioned, any circuit court, upon application by the commission, shall compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein.’’

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,200,000 or so much thereof as may be necessary for fiscal year 2007-2008 to be deposited into the petroleum industry monitoring, analysis, and reporting special fund.

SECTION 12. There is appropriated out of the petroleum industry monitoring, analysis, and reporting special fund the sum of \$1,200,000 or so much thereof as may be necessary for fiscal year 2007-2008 to administer, implement, and maintain the petroleum industry monitoring, analysis, and reporting program established under chapter 486J, Hawaii Revised Statutes.

The sum appropriated shall be expended by the public utilities commission for the purposes of chapter 486J, Hawaii Revised Statutes.

SECTION 13. In codifying the new sections added to the Hawaii Revised Statutes by this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 15. This Act shall take effect on July 1, 2007.

(Approved June 15, 2007.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 183

H.B. NO. 1004

A Bill for an Act Relating to Consumer Advocacy.

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

## PART I

SECTION 1. Progressive energy policy-making on the state level is one of the most important issues on the legislative agenda. Regulatory reform, specifically in the public utilities commission and the division of consumer advocacy of the department of commerce and consumer affairs, is essential to the successful implementation of recent and future energy policy reform. Recent legislation relies on professional staff in the agencies to use their skills and experience in various areas relating to public utilities to research, analyze, examine, and process legislative mandates.

The current organization of the division of consumer advocacy has not kept up with the recent changes made by legislation in the regulatory conditions, duties, and requirements of the division, diminishing its ability to perform effectively in the following ways:

- (1) Difficulty recruiting and retaining qualified individuals to fill specialized positions that require skills and experience that involve the performance of certain functions;
- (2) Specialized job requirements that do not correspond with existing position descriptions and classifications;
- (3) Bureaucratic obstacles in changing existing position descriptions and classifications;
- (4) Salaries that are substantially below mainland agency or private sector equivalents, especially considering the demanding and arduous job requirements; and
- (5) Agency organizational structures that are archaic and unresponsive of efficient work flow or the matching of human resources to the required tasks.

Act 143, Session Laws of Hawaii 2006, was passed to obtain an in-depth review of the division of consumer advocacy's organization and to develop a comprehensive plan to effectively restructure and supplement the division and its resources to function more effectively and efficiently. A report was submitted to the legislature in December 2006 by the division, specifying, as requested, the specific types and numbers of positions and the amounts necessary to restructure the division and supplement its resources.

The purpose of this part is to enhance the ability of the division of consumer advocacy to carry out its duties and responsibilities by:

- (1) Requiring the division to restructure its operations pursuant to the division's December 2006 report to the legislature to improve its effectiveness and efficiency; and
- (2) Appropriating funds to meet the costs incurred as a result of the restructuring process.

SECTION 2. (a) The division of consumer advocacy, department of commerce and consumer affairs, shall restructure its operations as provided for in the division's report to the legislature required pursuant to Act 143, Session Laws of Hawaii, 2006.

- (b) The restructuring shall include the following:

- (1) The existing financial analysis branch shall be renamed the regulatory analysis branch and shall house the integrated resource planning analyst, telecommunications analyst, and four auditor positions, which shall be redescribed as researcher analysts and conduct research and analysis in rate case and other proceedings and research new developments in utility regulation;
  - (2) The new regulatory analysis branch shall be expanded to add two additional exempt positions for researcher analysts;
  - (3) The existing economics and pricing branch shall be renamed the rate analysis branch, and the economist and research statisticians shall be redescribed as utility rate analysts, who will review applications for rate increases and tariff or rule amendments;
  - (4) Both the new regulatory analysis and rate analysis branches shall be supervised by a branch chief within the same class as the analysts and researchers within their respective branches to aid recruitment and retention efforts, ensure job satisfaction and personal growth, and encourage upward mobility within the branches; and
  - (5) Professional staff shall be encouraged to participate in staff training seminars to obtain a general understanding of the subject matter and receive regular updates to regulatory conditions.
- (c) Upon request by the division of consumer advocacy, all other state and county agencies shall assist the division in carrying out this part. The departments of human resources development and budget and finance shall continue to work cooperatively with the division as is deemed necessary by the division, to:
- (1) Rename or redescribe job descriptions;
  - (2) More closely correlate the actual work of the professional staff with the types of positions within the division; and
  - (3) Provide those positions with, where reasonable and equitable, more compensation to attract qualified applicants to the division.
- (d) Nothing in this section shall be construed to limit any existing authority of the department of commerce and consumer affairs to restructure the division of consumer advocacy without prior legislative approval.

SECTION 3. 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 chapter 76, 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 as may be necessary for the performance of the consumer advocate’s functions, in accordance with chapter 76; provided that:

- (1) The director may employ up to [~~four~~] ten utility analysts exempt from chapter 76; and
- (2) Each analyst shall possess at least the minimum qualifications required of comparable experts in the relevant industry.”

SECTION 4. There is appropriated out of the public utilities commission special fund the sum of \$168,000 for fiscal year 2007-2008 and the sum of \$168,000 for fiscal year 2008-2009 to be deposited into the compliance resolution fund.

SECTION 5. There is appropriated out of the compliance resolution fund the sum of \$168,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$168,000 or so much thereof as may be necessary for fiscal year 2008-2009 for two permanent utility analyst positions exempt from chapter 76, Hawaii Revised Statutes, in the division of consumer advocacy, department of commerce and consumer affairs.

The sums appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this part.

SECTION 6. There is appropriated out of the public utilities commission special fund the sum of \$30,000 for fiscal year 2007-2008 and the sum of \$30,000 for fiscal year 2008-2009 to be deposited into the compliance resolution fund.

SECTION 7. There is appropriated out of the compliance resolution fund the sum of \$30,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$30,000 or so much thereof as may be necessary for fiscal year 2008-2009 to send the professional staff of the division of consumer advocacy to specialized training seminars to obtain a general understanding of the subject matter and receive regular updates of regulatory condition changes.

The sums appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this part.

## PART II

SECTION 8. (a) The legislature finds that despite a broad range of identity theft legislation enacted by the legislature in 2006 through Act 140, Session Laws of Hawaii 2006, identity theft remains a critical issue for Hawaii consumers. In fact, the revelation early in 2007 that personal data of 11,500 families enrolled in a program for low-income women and children was at risk after a department of health employee allegedly stole information from a client database has revealed the continued threat posed by identity theft.

A recurring concern in legislative hearings on identity theft was the use of a social security number as a means of identification and the vulnerability of that information.

Act 140, Session Laws of Hawaii 2006, changed the name of the Hawaii anti-phishing task force to the identity theft task force and extended the duration of the task force to December 31, 2007. With staffing and research assistance provided by the office of the auditor, the task force continues to focus on:

- (1) Examining state agencies charged with the responsibility of developing policies, procedures, and operations to prevent, monitor, and enforce electronic commerce-based criminal activities and sanctions;
- (2) Deriving best practice models from the review of other jurisdictions' activities, policies, and laws related to the prevention of electronic commerce-based crimes;
- (3) Exploring other options available to the task force to deter electronic commerce-based crimes from occurring in the State; and
- (4) Establishing findings and recommendations on electronic commerce-based crime prevention.

(b) The purpose of this part is to further these and other proactive efforts to protect Hawaii consumers by appropriating funds to the office of the auditor for continued research and support services necessary to develop additional deterrents for identity theft.

## ACT 184

SECTION 9. 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 2007-2008 for research and support services necessary to protect Hawaii consumers by developing additional deterrents for identity theft, and in particular those related to the compromise of electronic data and information, and social security numbers in public records.

The sum appropriated shall be expended by the office of the auditor for the purposes of this part.

### PART III

SECTION 10. The purpose of this part is to allow business and government an additional year to comply with the provisions of Act 137, Session Laws of Hawaii 2006, relating to social security number protection.

SECTION 11. Act 137, Session Laws of Hawaii 2006, is amended by amending section 3 to read as follows:

“SECTION 3. This Act shall take effect on July 1, [2007-] 2008.”

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect on June 30, 2007; provided that sections 4, 5, 6, 7, and 9 of this Act shall take effect on July 1, 2007.

(Approved June 15, 2007.)

## ACT 184

H.B. NO. 513

A Bill for an Act Relating to Grants-In-Aid.

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

SECTION 1. Section 42F-103, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§42F-103]]~~ **Standards for the award of grants and subsidies.** (a) Grants and subsidies shall ~~[only]~~ be awarded only to individuals who, and organizations ~~[which:]~~ that:

- (1) Are licensed or accredited, in accordance with federal, state, or county statutes, rules, or ordinances, to conduct the activities or provide the services for which a grant or subsidy is awarded;
- (2) Comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, or disability;
- (3) Agree not to use state funds for entertainment or lobbying activities; and
- (4) Allow the state agency to which funds for the grant or subsidy were appropriated for expenditure, legislative committees and their staff, and the auditor full access to their records, reports, files, and other related documents and information for purposes of monitoring, measuring the

effectiveness, and ~~[assuring]~~ ensuring the proper expenditure of the grant or subsidy.

(b) In addition, a grant or subsidy may be made to an organization only if the organization:

- (1) Is incorporated under the laws of the State; and
- (2) Has bylaws or policies that describe the manner in which the activities or services for which a grant or subsidy is awarded shall be conducted or provided.

(c) Further, a grant or subsidy may be awarded to a non-profit organization only if the organization:

- (1) Has been determined and designated to be a non-profit organization by the Internal Revenue Service; and
- (2) Has a governing board whose members have no material conflict of interest and serve without compensation.

(d) If a grant or subsidy is used by an organization for the acquisition of land, when the organization discontinues the activities or services on the land acquired for which the grant or subsidy was awarded and disposes of the land in fee simple or by lease, the organization shall negotiate with the expending agency for a lump sum or installment repayment to the State of the amount of the grant or subsidy used for the acquisition of the land. This restriction shall be registered, recorded, and indexed in the bureau of conveyances or with the assistant registrar of the land court as an encumbrance on the property. Amounts received from the repayment of a grant or subsidy under this subsection shall be deposited into the general fund.”

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

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

(Approved June 15, 2007.)

## ACT 185

H.B. NO. 776

A Bill for an Act Relating to Ticket Sales.

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

SECTION 1. Chapter 481B, Hawaii Revised Statutes, is amended by adding a section to be appropriately designated and to read as follows:

**“§481B- Ticket brokers; fees; cancellation.** (a) No ticket broker shall charge a fee for the use of a credit card to purchase tickets without first disclosing that a fee will be charged.

(b) A ticket broker shall refund any and all service fees charged for the purchase of a ticket when the public exhibition, game, contest, or performance for which the ticket was purchased is canceled.

(c) For the purposes of this section, “ticket broker” means any person engaged in the business of selling tickets of admission or any other evidence of right of entry to a theater, place of amusement or entertainment, or other place where public exhibitions, games, contests, or performances are held, at a price greater than the price printed on the ticket.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

**ACT 186**

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

(Approved June 15, 2007.)

**Note**

- 1. Edited pursuant to HRS §23G-16.5.

**ACT 186**

H.B. NO. 1264

A Bill for an Act Relating to Housing.

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

SECTION 1. Section 201H-47, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The corporation may waive the restrictions prescribed in subsection (a) or (b) if:

- (1) The purchaser wishes to transfer title to the real property by devise or through the laws of descent to a family member who would otherwise qualify under rules established by the corporation; [ø]
- (2) The sale or transfer of the real property would be at a price and upon terms that preserve the intent of this section without the necessity of the State repurchasing the real property; provided that, in this case, the purchaser shall sell the unit or lot and sell or assign the property to a person who is a “qualified resident” as defined in section 201H-32; and provided further that the purchaser shall pay to the corporation its share of appreciation in the unit as determined in rules adopted pursuant to chapter 91, when applicable[-]; or
- (3) The sale or transfer is of real property subject to a sustainable affordable lease as defined in section 516-1.”

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

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

(Approved June 15, 2007.)

**ACT 187**

S.B. NO. 866

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 *Special Master’s Report to the Hawaii Tourism Authority on Recommendations Regarding The Hawaii Visitors and Convention Bureau*, dated December 31, 2003, by the Candon Consulting Group, LLC, recommended that the independence of the respective boards of directors of the Hawaii tourism authority and the Hawaii Visitors and Convention Bureau be preserved. The report states:

“There have been and are individuals who have served consecutively as Directors of both the HTA Board and the HVCB Board and visa-versa. This

situation invites questions about the arm's length nature of the relationship between these two Boards and their respective organizations. If enough members of each Board regularly switch from one to the other, the independence of each entity would diminish or disappear.”

The legislature finds that the problem is especially improper in the awarding of tourism marketing contracts to the Hawaii Visitors and Convention Bureau by the Hawaii tourism authority, notwithstanding the request for proposals procurement process. In addition, there is the unstated but evident problem of the inability to obtain innovative and fresh marketing ideas when the bidder and the agency are effectively one and the same.

The purpose of this Act is to prohibit anyone who has served on the board of directors of the Hawaii Visitors and Convention Bureau, a private entity, from serving on the board of the Hawaii tourism authority for a two-year period immediately following service on the board of the Hawaii Visitors and Convention Bureau.

SECTION 2. Section 201B-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The authority shall be headed by a policy-making board of directors which consists of twelve public, voting members, and four ex officio nonvoting members; provided that:

- (1) Twelve public, voting members shall be appointed by the governor as provided in section 26-34, except as otherwise provided by law;
  - (2) The twelve public, voting members shall be composed of at least one representative each from the city and county of Honolulu and the counties of Hawaii, Kauai, and Maui; the remaining public members shall be appointed at-large;
  - (3) Of the twelve public, voting members, three shall be appointed by the governor from a list of three names submitted for each appointment by the president of the senate, and three shall be appointed by the governor from a list of three names submitted for each appointment by the speaker of the house of representatives; provided that if fewer than three names are submitted for each appointment, the governor may disregard the list;
  - (4) At least six of the twelve public, voting members shall have knowledge, experience, and expertise in the area of visitor industry management, marketing, promotion, transportation, retail, entertainment, or visitor attractions, and at least one shall have knowledge, experience, and expertise in the area of Hawaiian cultural practices; provided that no more than three members shall represent, be employed by, or be under contract to any sector of the industry represented on the board;
  - (5) The governor shall make appointments to ensure the fulfillment of all requirements; provided that any appointments made after July 1, 2002, shall be made to fulfill the requirements in place when the appointments are made;
  - (6) The director of business, economic development, and tourism, or a designated representative, shall be an ex officio nonvoting member;
  - (7) The director of transportation, or a designated representative, shall be an ex officio nonvoting member;
  - (8) The chairperson of the board of land and natural resources, or a designated representative, shall be an ex officio nonvoting member;
- [and]

- (9) The executive director of the state foundation on culture and the arts, or a designated representative, shall be an ex officio nonvoting member[-]; and
- (10) No person who has served as a member of the board of directors of the Hawaii Visitors and Convention Bureau shall be eligible to sit as a public, voting member of the board of directors of the Hawaii tourism authority until at least two years have expired between the person's termination from service on the Hawaii Visitors and Convention Bureau board and the person's appointment to the authority's board of directors.'

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

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

(Approved June 15, 2007.)

## ACT 188

H.B. NO. 1337

A Bill for an Act Relating to the Death Care Industry.

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

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

“**§441- Cancellation; default and termination; refund.** (a) At any time before pre-need funeral services or pre-need interment services are received by the purchaser or the purchaser's contract beneficiary, the purchaser may cancel the contract containing any pre-need funeral services or pre-need interment services by notifying the cemetery or pre-need funeral authority, in writing, of the purchaser's desire to cancel the contract.

(b) Before a cemetery or pre-need funeral authority terminates a contract containing pre-need funeral services or pre-need interment services because of a delinquency in payment, the following conditions shall be met:

- (1) Four months in advance of the contemplated termination date, the cemetery or pre-need funeral authority shall provide written notice to the purchaser at the purchaser's last known address and the notice shall include at a minimum:
  - (A) The total amount owed under the contract at the time it was originally signed, dates and amounts of payments, adjustments, and credits received to date, and the amount of the delinquency;
  - (B) An explanation as to how the purchaser may effectuate continuance of the contract within four months of the date of notice;
  - (C) A statement that failure to effectuate continuance of the contract may result in termination of the contract; and
  - (D) A statement that advises the purchaser of all other requirements under this subsection;
- (2) During the four-month period, but not less than once a month, and only so long as the purchaser fails to effectuate continuance of the contract as provided herein, the cemetery or pre-need funeral authority shall provide the written notice required under paragraph (1);

- (3) If, however, there is a reasonable good faith bona fide dispute between the parties as to the amount of delinquency, the four-month period shall not start until the dispute is resolved; and
- (4) If the purchaser fails to effectuate continuance of the contract by the end of the four-month period, the cemetery or pre-need funeral authority may terminate the contract under the terms and conditions of the contract.

If the purchaser elects to effectuate continuance of the pre-need funeral services or pre-need interment services contract within the four-month period, the cemetery or pre-need funeral authority may require that the purchaser make payment to effectuate the continuance; provided that the amount required shall not be in excess of one installment payment of the purchaser's contract. The purchaser shall resume payment on the pre-need funeral services or pre-need interment services contract in the amounts and as often as required under the terms and conditions of the contract and until all payments owed on the contract are paid in full.

(c) A cemetery or pre-need funeral authority shall not be obligated to:

- (1) Allow a purchaser to effectuate continuance of a contract where a purchaser becomes delinquent again after the four-month period provided in subsection (b) has passed, and may thereafter terminate the contract under the terms and conditions of the contract; provided that the cemetery or pre-need funeral authority gives written notice of the termination to the purchaser at the purchaser's last known address at least ninety days prior to termination; or
- (2) Provide pre-need funeral services or pre-need interment services unless the contract is paid in full.

(d) If the contract is canceled or terminated pursuant to subsection (a) or (b) or for any other reason, the purchaser shall be entitled to a refund of the amounts paid by the purchaser, less amounts that may be retained by the cemetery or pre-need funeral authority for its costs pursuant to section 441-38(b). The cemetery or pre-need funeral authority shall make the refund to the purchaser within thirty days of:

- (1) Receipt of the purchaser's written notice of cancellation; or
- (2) Termination of the contract."

SECTION 2. Section 441-3, Hawaii Revised Statutes, is amended to read as follows:

**“§441-3 Map or plat required[-]; unique identifier.** (a) The cemetery authority [~~from time to time~~], as any of the dedicated cemetery property [~~described in the certificate of dedication~~], or any part or section thereof, is offered for sale, transfer, or disposition in the form of plots, crypts, or niches, shall also:

- (1) In the case of land, survey and subdivide [~~it~~] the dedicated cemetery property into sections, blocks, plots, avenues, walks, or other subdivisions; make a good and substantial map or plat showing the sections, blocks, plots, avenues, walks, or other subdivisions, with descriptive names, initials, or numbers[;] that uniquely identify each plot;
- (2) In the case of a mausoleum or columbarium, make a good and substantial map or plat on which shall be delineated the sections, halls, rooms, corridors, elevation, and other divisions, with descriptive names, initials, or numbers[-] that uniquely identify each niche, mausoleum, or crypt; and
- (3) File the maps or plats required by this section in the office of the bureau of conveyances or the office of the assistant registrar of the land court, and maintain a copy of all filed maps as a permanent record of the cemetery authority.

~~[The map or plat shall also be filed in the office of the bureau of conveyances or the office of the assistant registrar of the land court.]~~

(b) The cemetery authority shall also maintain a permanent, accurate record of the identity of each person whose remains are located in the cemetery, together with the corresponding unique identifier that indicates the location of the person's remains within the cemetery. The records required by this section shall be prepared and maintained in a manner that will enable the cemetery authority to timely respond to inquiries from the public or the department regarding the location of a person's remains within the cemetery.

(c) The cemetery authority shall specify the unique identifier of a plot, crypt, or niche in any document that provides for the sale, transfer, or disposition of the plot, crypt, or niche."

SECTION 3. Section 441-12, Hawaii Revised Statutes, is amended to read as follows:

**“§441-12 Mortgages and liens [subject to dedication]; consumer contracts; sales prohibited.** (a) Cemetery authorities may secure pecuniary obligations by mortgage or lien upon their property, whether or not the property has been set aside for interment purposes, and may sell plots, crypts, ~~or~~ niches, or contracts containing pre-need interment services subject to such mortgage or lien within the limitations and conditions imposed by this chapter.

(b) All mortgages and other liens of any nature hereafter contracted~~[, placed, or incurred upon]~~ for and recorded on the property which has been and was, at the time of the perfection of the lien, ~~[with the recorded written consent of the owner of any mortgage or lien,]~~ dedicated to cemetery purposes pursuant to this chapter, shall not affect or ~~[defeat]~~ impair the dedication~~[,]~~ of the property to cemetery use, or the title of any plot, crypt, or niche ~~[owner,]~~ contract, or the obligation of the cemetery authority to fully perform any contract containing pre-need interment services, but the mortgage or other lien shall be subject and subordinate to the dedication and title of any plot, crypt, or niche ~~[owner,]~~ contract and the obligation of the cemetery authority to fully perform any contract containing pre-need interment services, and any and all sales made upon foreclosure, insolvency, or federal bankruptcy proceeding shall be subject and subordinate to the dedication and title of any plot, crypt, or niche ~~[owner,]~~ contract and the obligation of the cemetery authority to fully perform any contract containing pre-need interment services.

(c) A statutory lien is created, without recordation of the lien, upon all real and personal property held by a pre-need funeral authority upon the filing with the department of audited financial statements, audited by an independent certified public accountant, that indicate that its pre-need funeral trusts are not fully funded as required by applicable law. The amount of the lien shall be equal to the amount that the pre-need funeral trusts are underfunded. This lien shall have priority over all subsequent real property mortgages, security interests, and liens created upon the real and personal property of the pre-need funeral authority and shall terminate at the time when the pre-need funeral trusts are properly funded, as evidenced by records and certification of the trustee and subsequent assurance from the independent certified public accountant that the underfunding was corrected.

(d) Notwithstanding any other language to the contrary, sales by a cemetery or pre-need funeral authority of accounts receivables from contracts containing pre-need interment, pre-need funeral, or perpetual care services shall be prohibited. Sales made in violation of this subsection shall be void.

(e) Any transfer of pre-need funeral trust funds and the obligations related thereto shall be to another person subject to section 441-20 or 441-30.5. Any transfer of pre-need funeral trust funds and pre-need funeral contracts and obligations related

thereto in accordance with this section shall include the transfer of pre-need funeral contracts made, entered into, or purchased by the pre-need funeral authority prior to the transfer.”

SECTION 4. Section 441-13, Hawaii Revised Statutes, is amended to read as follows:

**“§441-13 Sale of plots after dedication; sale of [inumbered] encumbered plots prohibited unless [ineumbrance] encumbrance subordinate to dedication.** After property is dedicated pursuant to this chapter, a cemetery authority may sell, transfer, and convey plots, crypts, or niches thereof, which plots, crypts, or niches [may] shall be described by reference to the map or plat, or amended map or plat, filed in accordance with section 441-3 or 441-8. No plot, crypt, or niche shall be sold, transferred, conveyed, or otherwise disposed of, or offered for sale, transfer, conveyance, or other disposition, unless the property on or in which the plot, crypt, or niche is included has been dedicated pursuant to this chapter, nor shall any plot, crypt, or niche be sold, transferred, conveyed, or otherwise disposed of, or offered for sale, transfer, conveyance, or other disposition, unless the property on or in which the plot, crypt, or niche is included shall either be free and clear of all [ineumbrances] encumbrances or there has been recorded the written consent of every [ineumbrancee] encumbrancer thereof that the [ineumbrancee’s-ineumbrance] encumbrancer’s encumbrance shall be subject and subordinate to the dedication of the property to cemetery purposes and the title of any plot, crypt, or niche owner.”

SECTION 5. Section 441-22.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Every cemetery or pre-need funeral authority shall be required to provide to the purchaser of cemetery property, pre-need interment, or pre-need funeral services and related commodities a written contract which shall contain the following [~~disclosure requirements:~~] disclosures:

- (1) The names and addresses of the cemetery or pre-need funeral authority [and], purchaser[;], and contract beneficiary, if the beneficiary is someone other than the purchaser;
- (2) A clear and concise itemized statement of the property, including, for cemetery property, the location of the plot, crypt, or niche by its unique identifier, and any services[;] and related commodities to be supplied or not supplied and by whom, particularly if the authority is not to be the provider under the terms of the contract;
- (3) The purchase price of each item of property, services, and related commodities to be supplied, the total purchase price, and how the total purchase price is payable[;], including any credit terms, if applicable; provided that, pursuant to section 441-22.7, disclosure shall also be made that further additional charges or fees for perpetual care subsequent to the execution of the contract are prohibited for any purpose and on any occasion, except for reasonable fees related to the administrative costs of transferring ownership rights, including the cost of research, document and file preparation, photocopying, notary fees, records transfer and storage, and any other costs directly related to the transfer of ownership rights;
- (4) Related costs covered under the contract;
- (5) The basis on which funds are to be deposited in trust[;], including:

- (A) The name and address of the trustee; provided that the disclosure shall not preclude the cemetery or pre-need funeral authority from changing the trustee named;
  - (B) The percentage of the contract price for trustable items to be placed in trust; provided that the percentage shall be no less than seventy per cent;
  - (C) The percentage of the contract price for trustable items that the cemetery or pre-need funeral authority will retain and not deposit into the trust; provided that the percentage shall not be more than thirty per cent; and
  - (D) Where a portion of the contract price relates to property, services, or related commodities that are not trustable items, a clear description of what those non-trustable items are;
- (6) [Refund] The refund, cancellation, and default provisions of the contract[;], including an explanation of the requirements of section 441- , and a statement in twelve-point bold type in substantially the following form:
- “YOU HAVE REFUND, CANCELLATION AND DEFAULT RIGHTS UNDER STATE LAW AND UNDER THE CONTRACT. PLEASE READ THE CONTRACT CAREFULLY FOR AN EXPLANATION OF THESE RIGHTS”;
- (7) The date and place of execution of the contract;
  - (8) The cemetery or pre-need funeral authority’s or its duly authorized agent’s signature on the contract and the identification of this person by name and title; [and]
  - (9) A statement that the written contract, when signed, shall constitute the entire agreement between the parties relative to its subject matter and that all obligations of both parties shall be fixed and enforceable by the other parties of the contract[-]; and
- (10) A statement that the contract may not waive any rights of the consumer or duties of the cemetery or pre-need funeral authority under the law.”

SECTION 6. Section 441-24, Hawaii Revised Statutes, is amended to read as follows:

**“§441-24 Inspection of cemetery or pre-need funeral authority books[; ~~annual exhibits~~].** The books, records, and papers of every cemetery authority whether or not a corporation, which operates or claims to operate a perpetual care cemetery, and of every pre-need funeral authority shall be subject to examination by the director [~~to the same extent and in the same manner as may be from time to time provided for corporations in section 414-472;~~] as provided by law, and every cemetery authority operating a perpetual care cemetery, and every pre-need funeral authority shall submit such information as may be required by the director [~~in order~~] to furnish information as to whether or not the cemetery or pre-need funeral authority has complied with this chapter.

The records of every cemetery authority shall include the information required under section 441-3(b). The records of every cemetery and pre-need funeral authority shall also include a record of any and all notifications from purchasers or representatives of purchasers regarding:

- (1) Any change in address; and
- (2) Notice of cancellation,

and shall include copies of any and all written notices of termination that were sent to purchasers. Change of address notices, cancellation notices, and notices of

termination relating to each contract containing any pre-need funeral services or pre-need interment services shall be maintained by the authority at all times prior to delivering goods or rendering services on the contract and for a period of at least six months after all goods have been delivered or all services have been rendered.”

SECTION 7. Section 441-45, Hawaii Revised Statutes, is amended to read as follows:

“**§441-45 Penalty.** In addition to the penalties otherwise provided by law, any [~~licensee who~~] cemetery or pre-need funeral authority that violates, or [omits] fails to comply with any of the provisions of this chapter or rules adopted pursuant thereto shall be fined not more than [\$1,000] \$5,000 for each violation.”

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 9. This Act shall take effect on July 1, 2007; provided that sections 1 and 5 shall take effect on July 1, 2008.

(Approved June 15, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 189**

H.B. NO. 1612

A Bill for an Act Relating to Consumer Credit Reporting Agencies.

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

SECTION 1. Section 489P-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [A] Any consumer who [has been the victim of identity theft] is a resident of this state may place a security freeze on the consumer’s credit report [by making a request in writing by certified mail to a consumer credit reporting agency, at an address designated by the agency to receive such requests, with a valid copy of a police report, investigative report, or complaint the consumer has filed with a law enforcement agency about unlawful use of the consumer’s personal information by another person]. A consumer credit reporting agency shall not charge a victim of identity theft a fee for placing, lifting, or removing a security freeze on a credit report[-] but may charge any other consumer a fee not to exceed \$5 for each request by the consumer to place, lift, or remove a security freeze from the consumer’s credit report.

A consumer who is a resident of this state and has been the victim of identity theft may place a security freeze on the consumer’s credit report by making a request in writing by certified mail to a consumer credit reporting agency, at an address designated by the agency to receive such requests, with a valid copy of a police report, investigative report, or complaint the consumer has filed with a law enforcement agency about unlawful use of the consumer’s personal information by another person. A consumer who has not been the victim of identity theft may place a security freeze on the consumer’s credit report by making a request in writing by certified mail to a consumer credit reporting agency.

## ACT 190

A security freeze shall prohibit the consumer credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. This subsection shall not prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report."

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

SECTION 3. This Act shall take effect on July 1, 2007.

(Approved June 15, 2007.)

## ACT 190

S.B. NO. 249

A Bill for an Act Relating to the Commission on Fatherhood.

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

SECTION 1. Act 156, Session Laws of Hawaii 2003, as amended by Act 148, Session Laws of Hawaii 2005, as amended by Act 232, Session Laws of Hawaii 2006, is amended by amending section 3 to read as follows:

~~"SECTION 3. This Act shall take effect on July 1, 2003[; and be repealed on June 30, 2007]."~~

SECTION 2. Statutory material to be repealed is bracketed and stricken.

SECTION 3. This Act shall take effect on June 29, 2007.

(Approved June 16, 2007.)

## ACT 191

H.B. NO. 1171

A Bill for an Act Relating to Government.

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

SECTION 1. Section 76-77, Hawaii Revised Statutes, is amended to read as follows:

**"§76-77 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the public service of each county, now existing or hereafter established, and embraces all personal services performed for each county, except the following:

- (1) Positions in the office of the mayor; provided that the positions shall be included in the classification systems;
- (2) Positions of officers elected by public vote, positions of heads of departments, and positions of one first deputy or first assistant of heads of departments;
- (3) Positions of deputy county attorneys, deputy corporation counsel, deputy prosecuting attorneys, and law clerks;

- (4) Positions of members of any board, commission, or agency;
- (5) Positions filled by students; positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973; and employees engaged in special research or demonstration projects approved by the mayor, for which projects federal funds are available;
- (6) Positions of district judges, jurors, and witnesses;
- (7) Positions filled by persons employed by contract where the personnel director has certified that the service is special or unique, is essential to the public interest, and that because of the circumstances surrounding its fulfillment, personnel to perform the service cannot be recruited through normal civil service procedures; provided that no contract pursuant to this paragraph shall be for any period exceeding one year;
- (8) Positions of a temporary nature needed in the public interest where the need does not exceed ninety days; provided that before any person may be employed to render temporary service pursuant to this paragraph, the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable; and provided further that the employment of any person pursuant to this paragraph may be extended for good cause for an additional period not to exceed ninety days upon similar certification by the director;
- (9) Positions of temporary election clerks in the office of the county clerk employed during election periods;
- (10) Positions specifically exempted from this part by any other state statutes;
- (11) Positions of one private secretary for each department head; provided that the positions shall be included in the classification systems;
- (12) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the county and that fact is certified by the director;
- (13) Positions filled by persons with a severe disability who are certified by the state vocational rehabilitation office as able to safely perform the duties of the positions;
- (14) Positions of the housing and community development office or department of each county; provided that this exemption shall not preclude each county from establishing these positions as civil service positions; ~~and~~
- (15) The following positions in the office of the prosecuting attorney: private secretary to the prosecuting attorney, secretary to the first deputy prosecuting attorney, and administrative or executive assistants to the prosecuting attorney; provided that the positions shall be included in the classification systems~~[-]; and~~
- (16) Positions or contracts for personal services with private persons or entities for services lasting no more than one year and at a cost of no more than \$750,000.

The director shall determine the applicability of this section to specific positions and shall determine whether or not positions exempted by paragraphs (7) and (8) shall be included in the classification systems.

Nothing in this section shall be deemed to affect the civil service status of any incumbent private secretary of a department head who held that position on May 7, 1977.”

## ACT 192

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

SECTION 3. This Act shall take effect on July 1, 2007.

(Approved June 18, 2007.)

## ACT 192

H.B. NO. 34

A Bill for an Act Relating to the Employees' Retirement System.

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

SECTION 1. Legislative findings. The legislature finds that:

- (1) On July 23, 2004, the United States Congress declared that "the atrocities unfolding in Darfur, Sudan, are genocide";
- (2) On September 9, 2004, Secretary of State Colin L. Powell told the United States Senate foreign relations committee that "genocide has occurred and may still be occurring in Darfur" and "the Government of Sudan and the Janjaweed bear responsibility";
- (3) On September 21, 2004, addressing the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's finding and stated, "[A]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide";
- (4) On December 7, 2004, the United States Congress noted that the genocidal policy in Darfur has led to reports of "systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves";
- (5) Also on December 7, 2004, Congress found that "the Government of Sudan has restricted access by humanitarian and human rights workers to the Darfur area through intimidation by military and security forces, and through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced from their villages and homes without any means of sustenance or shelter";
- (6) On September 25, 2006, Congress reaffirmed that "the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan";
- (7) On September 26, 2006, the United States House of Representatives stated that "an estimated 300,000 to 400,000 people have been killed by the Government of Sudan and its Janjaweed allies since the Darfur crisis began in 2003, more than 2,000,000 people have been displaced from their homes, and more than 250,000 people from Darfur remain in refugee camps in Chad";
- (8) The Darfur crisis represents the first time the United States government has labeled ongoing atrocities a genocide;

- (9) The federal government has imposed sanctions against the government of Sudan since 1997. These sanctions are monitored through the United States Treasury Department's office of foreign assets control;
- (10) According to a former chair of the United States Securities and Exchange Commission, "the fact that a foreign company is doing material business with a country, government, or entity on the sanctions list is, in the view of the Securities and Exchange Commission, substantially likely to be significant to a reasonable investor's decision about whether to invest in that company";
- (11) Since 1993, the United States Secretary of State has determined that Sudan is a country the government of which has repeatedly provided support for acts of international terrorism, thereby restricting United States assistance, defense exports and sales, and financial and other transactions with the government of Sudan;
- (12) A 2006 United States House of Representatives report states that "a company's association with sponsors of terrorism and human rights abuses, no matter how large or small, can have a materially adverse result on a public company's operations, financial condition, earnings, and stock prices, all of which can negatively affect the value of an investment";
- (13) In response to the financial risk posed by investments in companies doing business with a terrorist-sponsoring state, the Securities and Exchange Commission established its office of global security risk to provide for enhanced disclosure of material information regarding such companies;
- (14) The current Sudan divestment movement encompasses nearly one hundred universities, cities, states, and private pension plans;
- (15) Companies facing such widespread divestment present further material risk to remaining investors;
- (16) It is a fundamental responsibility of the State to decide where, how, and by whom financial resources in its control should be invested, taking into account numerous pertinent factors;
- (17) It is the prerogative and desire of the State, in respect to investment resources in its control and to the extent reasonable, with due consideration for, among other things, return on investment, on behalf of itself and its investment beneficiaries, not to participate in an ownership or capital-providing capacity with entities that provide significant practical support for genocide, including certain non-United States companies presently doing business in Sudan;
- (18) It is the judgment of the legislature that this Act should remain in effect only insofar as it continues to be consistent with, and does not unduly interfere with, the foreign policy of the United States as determined by the federal government; and
- (19) It is the judgment of this legislature that mandatory divestment of public funds from certain companies is a measure that should be employed sparingly and judiciously. A Congressional and presidential declaration of genocide satisfies this high threshold.

SECTION 2. Definitions. As used herein, the following definitions shall apply:

"Active business operations" means all business operations that are not inactive business operations.

"Business operations" means engaging in commerce in any form in Sudan, including by acquiring, developing, maintaining, owning, selling, possessing,

leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

“Company” means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for profit-making purposes.

“Complicit” means taking actions during any preceding twenty-month period which have directly supported or promoted the genocidal campaign in Darfur, including but not limited to preventing Darfur’s victimized population from communicating with each other, encouraging Sudanese citizens to speak out against an internationally-approved security force for Darfur, actively working to deny, cover up, or alter the record on human rights abuses in Darfur, or other similar actions.

“Direct holdings” in a company means all securities of that company held directly by the public fund or in an account or fund in which the public fund owns all shares or interests.

“Government of Sudan” means the government in Khartoum, Sudan, which is led by the National Congress Party (formerly known as the National Islamic Front) or any successor government formed on or after October 13, 2006 (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan), and does not include the regional government of southern Sudan.

“Inactive business operations” means the mere continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for such purpose.

“Indirect holdings” in a company means all securities of that company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the public fund, in which the public fund owns shares or interests together with other investors not subject to this Act.

“Marginalized populations of Sudan” include but are not limited to the portion of the population in the Darfur region that has been genocidally victimized; the portion of the population of southern Sudan victimized by Sudan’s North-South civil war; the Beja, Rashidiya, and other similarly underserved groups of eastern Sudan; the Nubian and other similarly underserved groups in Sudan’s Abyei, Southern Blue Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.

“Military equipment” means weapons, arms, military supplies, and equipment that readily may be used for military purposes, including but not limited to radar systems or military-grade transport vehicles; or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.

“Mineral extraction activities” include exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as well as facilitating such activities, including by providing supplies or services in support of such activities.

“Oil-related activities” include but are not limited to owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil; constructing, maintaining, or operating a pipeline, refinery, or other oil-field infrastructure; and facilitating such activities, including by providing supplies or services in support of such activities; provided that the mere retail sale of gasoline and related consumer products shall not be considered oil-related activities.

“Power production activities” means any business operation that involves a project commissioned by the National Electricity Corporation of Sudan or other

similar government of Sudan entity whose purpose is to facilitate power generation and delivery, including but not limited to establishing power-generating plants or hydroelectric dams, selling or installing components for the project, providing service contracts related to the installation or maintenance of the project, as well as facilitating such activities, including by providing supplies or services in support of such activities.

“Public fund” means the employees’ retirement system of the State of Hawaii or the board of trustees in charge of the employees’ retirement system.

“Scrutinized company” means any company that meets any of the following criteria:

- (1) The company has business operations that involve contracts with or provision of supplies or services to the government of Sudan; companies in which the government of Sudan has any direct or indirect equity share; government of Sudan-commissioned consortiums or projects; or companies involved in government of Sudan-commissioned consortiums or projects:
  - (A) A material portion of the company’s revenues or assets linked to Sudan involve oil-related activities or mineral extraction activities; the company does not contract directly with the regional government of southern Sudan or a project or consortium created exclusively by that regional government; and the company has failed to take substantial action; or
  - (B) A material portion of the company’s revenues or assets linked to Sudan involve power production activities; most of such activities do not include projects whose intent is to provide power or electricity to the marginalized populations of Sudan; and the company has failed to take substantial action;
- (2) The company is complicit in the Darfur genocide; or
- (3) The company supplies military equipment within Sudan, unless it clearly shows that the military equipment cannot be used to facilitate offensive military actions in Sudan or the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, for example, through post-sale tracking of the equipment by the company, certification from a reputable and objective third party that the equipment is not being used by a party participating in armed conflict in Sudan, or sale of the equipment solely to the regional government of southern Sudan or any internationally-recognized peacekeeping force or humanitarian organization.

Notwithstanding anything in this Act to the contrary, a social development company which is not complicit in the Darfur genocide shall not be considered a scrutinized company.

“Social development company” means a company whose primary purpose in Sudan is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure, educational opportunities, journalism-related activities, information or information materials, spiritual-related activities, services of a purely clerical or reporting nature, food, clothing, or general consumer goods that are unrelated to oil-related activities, mineral extraction activities, or power production activities.

“Substantial action” means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any new business operations; undertaking significant humanitarian efforts on behalf of one or more marginalized populations of Sudan; or through engagement with the government of Sudan, materially improving conditions for the genocidally victimized population in Darfur.

SECTION 3. Identification of companies. (a) Within one hundred eighty days following passage of this Act, the public fund shall make its best efforts to identify all scrutinized companies in which the public fund has direct holdings. Those efforts shall include, as appropriate:

- (1) Reviewing publicly available information regarding companies with business operations in Sudan. In conducting the review, the public fund may rely on information provided by nonprofit organizations, research firms, international organizations, and government entities;
- (2) Contacting asset managers contracted by the public fund that invest in companies with business operations in Sudan; and
- (3) Contacting other institutional investors that have divested from or engaged with companies that have business operations in Sudan.

(b) By the first meeting of the public fund following the one hundred eighty-day period described in subsection (a), the public fund shall assemble, into a "scrutinized companies list", all scrutinized companies identified in which the public fund has direct holdings.

(c) The public fund shall update the scrutinized companies list on a quarterly basis based on evolving information from, among other sources, those listed in subsection (a).

SECTION 4. Required actions. (a) The public fund shall adhere to the following procedures for companies on the scrutinized companies list:

- (1) The public fund shall determine the companies on the scrutinized companies list in which the public fund owns direct holdings;
- (2) For each company newly identified with active business operations in which the public fund owns direct holdings, the public fund shall send a written notice informing the company of its scrutinized company status and that it may become subject to divestment by the public fund. The notice shall offer the company the opportunity to clarify its Sudan-related activities and shall encourage the company, within ninety days, to either cease its scrutinized business operations or convert such operations to inactive business operations to avoid qualifying for divestment by the public fund;
- (3) If, within ninety days following the public fund's first engagement with a company, that company ceases scrutinized business operations, the company shall be removed from the scrutinized companies list and this section shall cease to apply to it unless it resumes scrutinized business operations. If, within ninety days following the public fund's first engagement, the company converts its scrutinized active business operations to inactive business operations, the company shall be subject to all provisions relating thereto; and
- (4) If, after ninety days following the public fund's first engagement with a company following the effective date of this Act, that company continues to have scrutinized active business operations, the company shall be subject to subsection (b), unless the board of trustees of the public fund determines that the company has made sufficient progress towards ceasing its scrutinized business operations or converting such operations to inactive business operations. The public fund shall continue to monitor and review the progress of the company on a quarterly basis until that company has ceased its scrutinized business operations or converted such operations to inactive business operations. A company that fails to cease its scrutinized business operations, to convert such operations to inactive business operations, or to continue to make

sufficient progress towards cessation or conversion by the next time interval shall be subject to subsection (b).

(b) If a company on the scrutinized companies list fails to cease scrutinized active business operations in the time described in subsection (a)(4), the public fund shall sell, redeem, divest, or withdraw all publicly-traded securities of the company, except as provided below, within eighteen months after the company becomes subject to this subsection. The public fund may relax the divestment schedule if the public fund determines divestment from particular companies or funds will likely, in the good faith judgment of the board of trustees of the public fund, result in public fund losses exceeding the 99.50 per cent mark described in section 7. If such a circumstance arises, the public fund shall submit a report to the legislature setting forth the reasons and justification, accompanied by supporting documentation that includes objective numerical estimates, for its decision to relax the divestment schedule. The report shall be updated annually thereafter as applicable.

(c) At no time shall the public fund acquire securities of companies on the scrutinized companies list that have active business operations, except as provided below.

(d) No company which the United States affirmatively declares to be excluded from its present or any future federal sanctions regime relating to Sudan shall be subject to divestment or investment prohibition pursuant to subsections (b) and (c).

(e) Notwithstanding anything herein to the contrary, subsections (b) and (c) shall not apply to indirect holdings in actively managed investment funds.

**SECTION 5. Reporting.** (a) The public fund shall file a publicly-available report to the legislature that includes the scrutinized companies list within ninety days after the list is created.

(b) Annually thereafter, the public fund shall file a publicly-available report to the legislature that includes:

- (1) A summary of correspondence with companies engaged by the public fund under section 4;
- (2) All investments sold, redeemed, divested, or withdrawn in compliance with section 4;
- (3) All prohibited investments under section 4; and
- (4) Any progress made under section 4.

**SECTION 6. Other legal obligations.** With respect to actions taken in compliance with this Act, including all good faith determinations regarding companies as required by this Act, the public fund shall be exempt from any conflicting statutory or common law obligations, including any obligations in respect to choice of asset managers, investment funds, or investments for the public fund's securities portfolios. Nothing in this Act shall require the public fund to take action as described in this Act unless the board of trustees of the public fund determines, in good faith, that the action is consistent with the responsibilities of the board as described in section 88-22.5(a)(1), Hawaii Revised Statutes.

**SECTION 7. Reinvestment in certain companies with scrutinized active business operations.** Notwithstanding anything in this Act to the contrary, the public fund shall be permitted to cease divesting from certain scrutinized companies pursuant to section 4 and reinvest in certain scrutinized companies from which it divested pursuant to section 4 if, in the good faith judgment of the board of trustees of the public fund, the value for all assets under management by the public fund becomes equal to or less than 99.50 per cent (50 basis points) of the hypothetical value of all assets under management by the public fund assuming no divestment for

any company had occurred under section 4. Cessation of divestment, reinvestment, or any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in the preceding sentence. For any cessation of divestment, reinvestment, or subsequent ongoing investment authorized by this section, the public fund shall provide a written report to the legislature, accompanied by supporting documentation that includes objective numerical estimates, for its decisions to cease divestment, reinvest, or remain invested in companies with scrutinized active business operations. The report shall be updated annually thereafter as applicable. This section has no application to reinvestment in companies on the ground that they have ceased to have scrutinized active business operations.

SECTION 8. Provisions for expiration of this Act. This Act shall be repealed upon the occurrence of any of the following:

- (1) The Congress or President of the United States declares that the Darfur genocide has been halted for at least twelve months;
- (2) The United States revokes all sanctions imposed against the government of Sudan;
- (3) The Congress or President of the United States declares that the government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons; or
- (4) The Congress or President of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this chapter interferes with the conduct of United States foreign policy.

SECTION 9. If any one or more provisions, sections, subsections, sentences, clauses, phrases, or words of this Act or the application to any person or circumstance is found to be invalid, illegal, unenforceable, or unconstitutional, the same is declared to be severable and the balance of this Act shall remain effective and functional notwithstanding the invalidity, illegality, unenforceability, or unconstitutionality.

The legislature declares that it would have passed this Act, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases, or words be declared invalid, illegal, unenforceable or unconstitutional, including but not limited to each of the engagement, divestment, and prohibition provisions of this Act.

SECTION 10. This Act shall take effect on July 1, 2007.

(Approved June 18, 2007.)

**ACT 193**

H.B. NO. 1361

A Bill for an Act Relating to Housing.

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

SECTION 1. The purpose of this Act is to correct chapter 356D, Hawaii Revised Statutes, relating to the Hawaii public housing authority, to reflect the legislature's intent to codify various acts passed during the regular session of 2006

into chapter 356D, Hawaii Revised Statutes, and to make other necessary technical and housekeeping amendments.

## PART I

SECTION 2. The purpose of this part is to reflect the legislature's intent to codify relevant provisions of Act 24, Session Laws of Hawaii 2006, into chapter 356D, Hawaii Revised Statutes.

SECTION 3. Section 356D-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Tenant” means any person occupying a dwelling unit or living quarters in any public housing project, under or by virtue of any tenancy lease or rental agreement under or from the authority.”

SECTION 4. Section 356D-92, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) If the tenant meets with the authority as provided for in subsection (b), the authority shall decide, based upon the facts discussed at the meeting, what action is appropriate to address the tenant's case. The authority shall notify the tenant of its decision in writing. If the authority decides to proceed with an action to terminate the tenancy, the authority shall further inform the tenant in the same written notice that:

- (1) The tenant has [~~thirty days~~] ten business days from receipt of this notice to request a grievance hearing; and
- (2) If the tenant fails to request a grievance hearing within [~~thirty days,~~] ten business days, the authority has the right to proceed with the eviction hearing pursuant to section 356D-93.”

SECTION 5. 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 or occupancy for a period of up to four years subsequent thereto, pursuant to a plan for the transfer of the dwelling unit or the property of which it is a part to the occupant;

- (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 [201G, part IV;] 356D, part VII;
- (10) Residence or occupancy in a public housing project or complex directly controlled, owned, or managed by the Hawaii public housing authority pursuant to the federal low rent public housing program; or
- (11) Residence or occupancy in a transitional facility for abused family or household members."

## PART II

SECTION 6. Section 356D-97, Hawaii Revised Statutes, is amended to read as follows:

“[~~§~~356D-97] **Appeals.** An aggrieved party may secure a review of any final judgment of the circuit court under this part by appeal to the [intermediate] appellate [~~court,~~] courts, subject to chapter 602. The appeal shall be taken in the manner provided in the rules of court.”

## PART III

SECTION 7. The purpose of this part is to reflect the legislature's intent to codify relevant provisions of Act 100, Session Laws of Hawaii 2006, in chapter 356D, Hawaii Revised Statutes.

SECTION 8. Chapter 356D, Hawaii Revised Statutes, is amended by adding to part VII a new section to be appropriately designated and to read as follows:

“**§356D- Temporary emergency housing.** (a) In addition to any other duties prescribed by law, the authority shall develop, in consultation with the four counties, a procedure for identifying locations that shall be used for temporary emergency shelters for homeless individuals and families. The authority shall actively partner with and monitor the efforts of the counties.

(b) Each county shall be responsible for partnering with nonprofit organizations to locate, designate, and maintain the areas that shall be used for temporary emergency shelters. The designated locations may include private, county, state, and federal lands at Kalaeloa.

(c) With regard to the former Barbers Point Naval Air Station, the authority shall work with landowners and the local redevelopment authority on the use of barracks and other facilities located in the Kalaeloa community development district that are suitable for temporary emergency housing for homeless individuals and families.

(d) The authority shall submit an annual report to the legislature detailing the activities and outcomes under this section no later than twenty days prior to the convening of each regular session beginning with the 2008 regular session.”

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect upon approval.

(Approved June 18, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 194**

H.B. NO. 13

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 the establishment of a revolving fund for the department of education's office of Hawaii child nutrition program is necessary to account for the receipts from the administrative fees charged to the recipient agencies for the distribution of federal commodity foods.

The legislature further finds that the United States Department of Agriculture Food and Nutrition Service, Western Region Office, monitors and approves the administrative fees charged to the recipient agencies. However, federal legislation does not allow the department of education to expend federal moneys for the operations of state-contracted warehouses.

The purpose of this Act is to create a revolving fund for the collection and disbursement of generated revenue to support the administration and operation of the department of education food distribution program.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§302A- Food distribution program revolving fund.** (a) There is established the food distribution program revolving fund to be administered by the department.

(b) The food distribution program revolving fund shall consist of:

- (1) Administrative fees collected by the department for administering and operating the food distribution program;
- (2) All interest earned on the deposit or investment of moneys in the food distribution program revolving fund; and
- (3) Any other moneys made available to the food distribution program revolving fund from other sources.

(c) The revolving fund shall be used by the department for the collection and disbursement of generated revenue to support the administration and operation of the food distribution program.

(d) The balance in the food distribution program revolving fund shall not exceed \$2,000,000 to pay for services rendered by state-contracted warehouses for the distribution of federal commodity foods to the recipient agencies. Any moneys remaining in the revolving fund in excess of \$2,000,000 at the end of each fiscal year shall lapse to the credit of the general fund.

(e) The food distribution program revolving fund shall not be used for:

- (1) Consultant or personal services rendered;
- (2) Travel expenses that may include conference registration, per diem, or airfare costs; or
- (3) The purchase of furniture, equipment, computer hardware, or office supplies.”

## ACT 195

SECTION 3. There is appropriated out of the food distribution program revolving fund of the State of Hawaii the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for the payment of services provided by state-contracted warehouses for the distribution of federal commodity foods to recipient agencies under the department of education food distribution program.

The sums appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved June 19, 2007.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 195

S.B. NO. 323

A Bill for an Act Relating to High Technology.

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

SECTION 1. Section 206M-53, Hawaii Revised Statutes, is amended to read as follows:

“**§206M-53 Powers of the board.** The high technology innovation corporation, under the direction of its board of directors, shall have the following general powers:

- (1) To adopt, amend, and repeal bylaws governing the conduct of its business and the exercise of the powers and performance of duties granted to or imposed upon it by law;
- (2) 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;
- (3) To enter into and perform contracts, leases, cooperative agreements, or other transactions with the high technology development corporation or any other agency or political subdivision of the State, any private person, firm, partnership, association, company, or corporation, only as it may be necessary in the conduct of its business and on terms as it may deem appropriate; provided that the high technology innovation corporation shall not obligate any funds of the State except funds that have been appropriated to it by the legislature or transferred or contracted to it by the high technology development corporation or other agency or department of the state government. Notwithstanding the foregoing, the high technology innovation corporation may enter into and perform contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, a foreign nation, a state, a territory or a possession, or with any political subdivision thereof, whenever the donating or granting agency or instrumentality determines that the high technology development corporation or any other agency of the State cannot as effectively and efficiently accomplish the purposes for which the contracts, leases, cooperative agree-

ments, or other transactions are being entered into; provided that the high technology innovation corporation shall not obligate any funds of the State except funds that have been appropriated or transferred to it or contracted for it;

- (4) To receive by gifts, grants, devises, bequests, or otherwise, from private sources only, 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; provided that no gift to the high technology innovation corporation shall be accepted unless approved or confirmed by its board of directors. Notwithstanding the foregoing, the high technology innovation corporation may receive gifts, grants, or awards from any agency or instrumentality of the United States, a foreign nation, a state, a territory or a possession, or from any political subdivision thereof, whenever the donating or granting agency or instrumentality determines that the high technology development corporation or any other agency of the State cannot as effectively and efficiently accomplish the purposes for which the gifts, grants, or awards are being made; provided that no gift to the high technology innovation corporation shall be accepted unless approved or confirmed by its board of directors;
- (5) To have a corporate seal;
- (6) To sue and be sued in its own name;
- (7) To serve as trustee or beneficiary under terms of any gift, indenture, or will;
- (8) To apply for, take out, receive by purchase or gift, hold, administer, and dispose of copyrights, patent rights, licenses, assignments of inventions, discoveries, processes, and other property, rights or interests therein, and the income thereof, absolutely or subject to conditions or trusts as may be attached thereto or be imposed thereon, and to obligate itself to perform and execute any and all conditions or trusts;
- (9) To conduct programs, projects, research, studies, experiments, investigations, and tests in all fields of knowledge; to promote and develop the scientific and commercial value of inventions, discoveries, and processes; and to make, publish, and distribute the results thereof;
- (10) To coordinate and correlate activities and projects of the high technology innovation corporation with the work of state agencies for the purpose of relating research work to the economic development of the State whenever practical or desirable;
- (11) To stimulate and promote cooperative research projects and activities;
- (12) To establish and maintain, or to assist in establishing and maintaining staff positions for the purpose of aiding in technology-based economic development, and to enter into agreements or contracts with other corporations, organizations, institutions, or persons for this purpose and to pay the necessary and appropriate expenses therefor;
- (13) To prepare, print, or publish any manuscript, research article, report, study, discussion, reference, collection, or any pictorial or schematic representation or group or collection thereof, whether the same belongs to or is the work of any state agency or its employees, or the high technology innovation corporation or its employees or a contractor of the high technology innovation corporation. The printing or publication may be accomplished through whatever person, company, or agency is deemed most appropriate by the board of directors;

- (14) To establish operational bank accounts as may be necessary in the conduct of its business ~~[at]~~ and its out-of-state offices, including accounts in in-state and out-of-state locations and accounts of foreign denomination in out-of-state locations, without the approval of the director of budget and finance or the comptroller of accounting and general services; and
- (15) To do any or all other acts reasonably necessary to carry out the objects and purposes of the high technology innovation corporation.”

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

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

(Approved June 19, 2007.)

**ACT 196**

S.B. NO. 228

A Bill for an Act Relating to Graffiti.

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

SECTION 1. Section 577-3.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In addition to any other lawful orders, if a minor is found under chapter 571 to have committed an act constituting graffiti, the court ~~[may order the minor, the parents, or the legal guardians of the minor to pay the actual cost of having the damaged property repaired or replaced]~~ shall:

- (1) Require the minor, the parents, or the legal guardians to remove the graffiti from the affected property within sixty days of the order and pay for the cost of paint and materials; or if appropriate, pay for the actual cost of having the damaged property repaired or replaced; and ~~[may order]~~
- (2) Order the minor to perform a minimum of eighty hours of<sup>1</sup> community service[-] to remove graffiti from other properties.

~~[If the court orders payment for the actual cost of the damage, the court shall give due consideration to the financial resources of the minor, the parents, or the legal guardians of the minor to ensure that they will be able to pay the costs of the damage. If the court determines that the minor, the parents, or the legal guardians of the minor are unable to pay the actual cost of the damage, the court may order payment in an amount for which they are able to pay or in a manner in which they are able to pay, and may order the minor to perform community service work in an amount commensurate with the costs of the damage for which they are unable to pay.]”~~

SECTION 2. Section 708-823.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of aggravated criminal property damage if the person by means other than fire:

- (a) Intentionally damages the property of another without the other’s consent; and
- (b) Has been convicted two or more times of an offense under section 708-822 or 708-823 ~~[in the preceding five years].”~~

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 and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon approval.

(Approved June 19, 2007.)

Note

1. "Of" should be underscored.

ACT 197

H.B. NO. 1246

A Bill for an Act Relating to Metal.

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

SECTION 1. Section 445-231, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Copper” means copper in all different forms, including tubing, sheets (includes plates), gutters, down spouts, bars, bare wire or cable, insulated wire or cable, and aluminum/copper coil used in air conditioning and refrigeration.”

SECTION 2. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

**“§708- Theft of copper.** (1) A person commits the offense of theft of copper if the person commits theft of copper that weighs a pound or more, but not including legal tender of the United States.

(2) Theft of copper is a class C felony.”

SECTION 3. Section 445-233, Hawaii Revised Statutes, is amended to read as follows:

**“§445-233 Statement required.** (a) Every scrap dealer, when the dealer purchases scrap within the State, shall obtain a written statement signed by the seller [~~or the seller’s agent~~] certifying that the seller [~~or the seller’s agent~~] has the lawful right to sell and dispose of the scrap. This statement shall also contain the seller’s name; the seller’s business or residence address; the seller’s occupation; a description, including serial numbers and other identifying marks, when practical, of every scrap; the amount received by the seller; the date, time, and place of the sale; and the license number of any vehicle used to deliver the property to the place of purchase.

(b) If the scrap presented for purchase is copper, in whole or in part, the seller shall provide a copy of a receipt that describes, with particularity:

- (1) The exact item that is being offered for sale;
- (2) Who issued the receipt;
- (3) The date of sale of the item prior to the item’s being offered to the scrap dealer; and
- (4) The price, if any, of the item when obtained by the seller.

(c) If a receipt is not available, the seller shall provide to the scrap dealer a notarized declaration, describing with particularity:

- (1) The exact item that is being offered for sale;
- (2) Who sold or otherwise transferred the item to the seller;
- (3) The date of sale of the item; and
- (4) The price, if any, of the item when obtained by the seller.

(d) If the seller does not provide a copy of the receipt or the notarized declaration as required by subsections (b) and (c), the scrap dealer shall not purchase the copper, in whole or in part, and shall report the attempted sale to the police.

(e) If the scrap dealer purchases any copper, in whole or in part, the scrap dealer shall take a photograph or photographs of all of the copper offered for sale.

(f) The scrap dealer shall also require the seller to verify the seller's identity by presenting [proper] a valid photo identification[-] card or license issued by a federal or state government agency authorized to issue such identification. If the scrap being offered for sale is copper, in whole or in part, the scrap dealer shall:

- (1) Take a photograph of the seller; or
- (2) Make a photocopy of the identification card or license of the seller.

(g) The scrap dealer shall keep at the dealer's place of business the signed written statement, the receipt or notarized declaration required by subsections (b) and (c), the photographs required by subsection (e), and the photocopy of the identification card or license and photograph of the seller required by subsection (f), if applicable, from the seller for a period of two years after the date of purchase and the statement, the receipt or notarized declaration required by subsections (b) and (c), the photographs required by subsection (e), and the photocopy and photograph required by subsection (f), if applicable, may be examined at any time by the treasurer [or], the chief of police[-], the attorney general, the prosecuting attorney, or their designees.

(h) Public utilities, as defined in section 269-1, shall be exempt from the requirements of subsections (b) and (c). When the seller is a public utility, the scrap dealer shall not be required to obtain the statement required by subsection (a), and the scrap dealer shall not be prohibited by subsection (d) from purchasing the copper from the public utility."

SECTION 4. Section 445-235, Hawaii Revised Statutes, is amended to read as follows:

"§445-235 Prohibitions; penalty. Any person who violates sections 445-232 and 445-233, or any person who falsifies a statement required by section 445-233, shall be guilty of a misdemeanor[-] and shall be sentenced in accordance with chapter 706, except that the court shall impose a minimum sentence of:

- (1) A fine of \$1,000 for the first offense;
- (2) A fine of \$3,000 for the second offense; and
- (3) A fine of \$5,000 and the suspension of the scrap dealer's license for a period of six months for the third or subsequent offense; provided that if the third or subsequent offense occurs within a five-year period from the occurrence of two prior offenses, the scrap dealer shall be subject to license revocation."

SECTION 5. This Act shall not affect the rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect on July 1, 2007, and shall be repealed on July 1, 2009; provided that sections 445-233 and 445-235, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the effective date of this Act.

(Approved June 19, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 198**

H.B. NO. 154

A Bill for an Act Relating to Motor Vehicle Safety.

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

SECTION 1. Section 291E-1, Hawaii Revised Statutes, is amended by amending the definition of “highly intoxicated driver” to read as follows:

““Highly intoxicated driver” means a person whose measurable amount of alcohol is 0.15 or more grams of alcohol per one hundred milliliters or cubic centimeters of the person’s blood, or 0.15 or more grams of alcohol per two hundred ten liters of the person’s breath~~[, as measured at the time of the offense, or within three hours of the time of the offense].~~”

SECTION 2. Section 291E-3, Hawaii Revised Statutes, is amended to read as follows:

**“§291E-3 Evidence of intoxication.** (a) In any criminal prosecution for a violation of section 291E-61 or 291E-61.5 or in any proceeding under part III:

- (1) .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of the person’s blood;
- (2) .08 or more grams of alcohol per two hundred ten liters of the person’s breath; or
- (3) The presence of one or more drugs in an amount sufficient to impair the person’s ability to operate a vehicle in a careful and prudent manner,

within three hours after the time of the alleged violation as shown by chemical analysis or other approved analytical techniques of the person’s blood, breath, or urine shall be competent evidence that the person was under the influence of an intoxicant at the time of the alleged violation.

(b) In any criminal prosecution for a violation of section 291E-61 or 291E-61.5, the amount of alcohol found in the defendant’s blood or breath within three hours after the time of the alleged violation as shown by chemical analysis or other approved analytical techniques of the defendant’s blood or breath shall be competent evidence concerning whether the defendant was under the influence of an intoxicant at the time of the alleged violation and shall give rise to the following presumptions:

- (1) If there were .05 or less grams of alcohol per one hundred milliliters or cubic centimeters of defendant’s blood or .05 or less grams of alcohol per two hundred ten liters of defendant’s breath, it shall be presumed that the defendant was not under the influence of alcohol at the time of the alleged violation; and
- (2) If there were in excess of .05 grams of alcohol per one hundred milliliters or cubic centimeters of defendant’s blood or .05 grams of alcohol per two hundred ten liters of defendant’s breath, but less than

.08 grams of alcohol per one hundred milliliters or cubic centimeters of defendant's blood or .08 grams of alcohol per two hundred ten liters of defendant's breath, that fact may be considered with other competent evidence in determining whether the defendant was under the influence of alcohol at the time of the alleged violation, but shall not of itself give rise to any presumption.

(c) In any criminal prosecution for a violation of section 291E-61 or in any proceeding under part III:

- (1) .15 or more grams of alcohol per one hundred milliliters or cubic centimeters of the person's blood; or
- (2) .15 or more grams of alcohol per two hundred ten liters of the person's breath,

within three hours after the time of the alleged violation as shown by chemical analysis or other approved analytical techniques of the person's blood, breath, or urine shall be competent evidence that the person was a highly intoxicated driver at the time of the alleged violation.

[(e)] (d) Nothing in this section shall be construed as limiting the introduction, in any criminal proceeding for a violation under section 291E-61 or 291E-61.5 or in any proceeding under part III, of relevant evidence of a person's alcohol concentration or drug content obtained more than three hours after an alleged violation; provided that the evidence is offered in compliance with the Hawaii rules of evidence."

SECTION 3. Section 291E-41, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The periods of administrative revocation with respect to a license and privilege to operate a vehicle, and motor vehicle registration if applicable, that shall be imposed under this part are as follows:

- (1) A minimum of three months up to a maximum of one year revocation of license and privilege to operate a vehicle, if the respondent's record shows no prior alcohol enforcement contact or drug enforcement contact during the five years preceding the date the notice of administrative revocation was issued;
- (2) For a respondent who is a highly intoxicated driver, if the respondent's record shows no prior alcohol enforcement contact or drug enforcement contact during the five years preceding the date the notice of administrative revocation was issued, a [mandatory six-month] minimum of six months up to a maximum of one year revocation of license and privilege to operate a vehicle and of the registration of any motor vehicle registered to the highly intoxicated driver; provided that the highly intoxicated driver shall not qualify for a conditional license permit under section 291E-44;
- (3) A minimum of one year up to a maximum of two years revocation of license and privilege to operate a vehicle and of the registration of any motor vehicle registered to the respondent, if the respondent's record shows one prior alcohol enforcement contact or drug enforcement contact during the five years preceding the date the notice of administrative revocation was issued;
- (4) A minimum of two years up to a maximum of four years revocation of license and privilege to operate a vehicle and of the registration of any motor vehicle registered to the respondent, if the respondent's record shows two prior alcohol enforcement contacts or drug enforcement

contacts during the seven years preceding the date the notice of administrative revocation was issued;

- (5) Lifetime revocation of license and privilege to operate a vehicle and of the registration of any motor vehicle registered to the respondent and a lifetime prohibition on any subsequent registration of motor vehicles by the respondent, if the respondent's record shows three or more prior alcohol enforcement contacts or drug enforcement contacts during the ten years preceding the date the notice of administrative revocation was issued; or
- (6) For respondents under the age of eighteen years who were arrested for a violation of section 291E-61 or 291E-61.5, revocation of license and privilege to operate a vehicle either for the period remaining until the respondent's eighteenth birthday or, if applicable, for the appropriate revocation period provided in paragraphs (1) to (5) or in subsection (d), whichever is longer and such respondents shall not qualify for a conditional permit;

provided that when more than one administrative revocation, suspension, or conviction arises out of the same arrest, it shall be counted as only one prior alcohol enforcement contact or drug enforcement contact, whichever revocation, suspension, or conviction occurs later."

SECTION 4. Section 291E-61, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A person committing the offense of operating a vehicle under the influence of an intoxicant shall be sentenced as follows without possibility of probation or suspension of sentence:

- (1) ~~For~~ Except as provided in section 291E-61(b)(2), for the first offense, or any offense not preceded within a five-year period by a conviction for an offense under this section or section 291E-4(a):
  - (A) A fourteen-hour minimum substance abuse rehabilitation program, including education and counseling, or other comparable program deemed appropriate by the court;
  - (B) Ninety-day prompt suspension of license and privilege to operate a vehicle during the suspension period, or the court may impose, in lieu of the ninety-day prompt suspension of license, a minimum thirty-day prompt suspension of license with absolute prohibition from operating a vehicle and, for the remainder of the ninety-day period, a restriction on the license that allows the person to drive for limited work-related purposes and to participate in substance abuse treatment programs;
  - (C) Any one or more of the following:
    - (i) Seventy-two hours of community service work;
    - (ii) Not less than forty-eight hours and not more than five days of imprisonment; or
    - (iii) A fine of not less than \$150 but not more than \$1,000; and
  - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund;
- (2) ~~[For an offense committed by a highly intoxicated driver, prompt suspension of license and privilege to operate a vehicle for a period of six months with an absolute prohibition from operating a vehicle during the suspension period;] For a first offense committed by a highly intoxicated driver, or for any offense committed by a highly intoxicated~~

driver not preceded within a five-year period by a conviction for an offense under this section or section 291E-4(a):

- (A) A fourteen-hour minimum substance abuse rehabilitation program, including education and counseling, or other comparable program deemed appropriate by the court;
  - (B) Prompt suspension of a license and privilege to operate a vehicle for a period of six months with an absolute prohibition from operating a vehicle during the suspension period;
  - (C) Any one or more of the following:
    - (i) Seventy-two hours of community service work;
    - (ii) Not less than forty-eight hours and not more than five days of imprisonment; or
    - (iii) A fine of not less than \$150 but not more than \$1,000; and
  - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund;
- (3) For an offense that occurs within five years of a prior conviction for an offense under this section or section 291E-4(a) by:
- (A) Prompt suspension of license and privilege to operate a vehicle for a period of one year with an absolute prohibition from operating a vehicle during the suspension period;
  - (B) Either one of the following:
    - (i) Not less than two hundred forty hours of community service work; or
    - (ii) Not less than five days but not more than fourteen days of imprisonment of which at least forty-eight hours shall be served consecutively;
  - (C) A fine of not less than \$500 but not more than \$1,500; and
  - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund;
- (4) For an offense that occurs within five years of two prior convictions for offenses under this section or section 291E-4(a):
- (A) A fine of not less than \$500 but not more than \$2,500;
  - (B) Revocation of license and privilege to operate a vehicle for a period not less than one year but not more than five years;
  - (C) Not less than ten days but not more than thirty days imprisonment of which at least forty-eight hours shall be served consecutively;
  - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund; and
  - (E) Forfeiture under chapter 712A of the vehicle owned and operated by the person committing the offense; provided that the department of transportation shall provide storage for vehicles forfeited under this subsection; and
- (5) Any person eighteen years of age or older who is convicted under this section and who operated a vehicle with a passenger, in or on the vehicle, who was younger than fifteen years of age, shall be sentenced to an additional mandatory fine of \$500 and an additional mandatory term of imprisonment of forty-eight hours; provided that the total term of imprisonment for a person convicted under this paragraph shall not exceed the maximum term of imprisonment provided in paragraph (1), [(3)][], or [(4)][]."

SECTION 5. Section 291E-64, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) A person who violates this section shall be sentenced as follows:
- (1) For a first violation or any violation not preceded within a five-year period by a prior alcohol enforcement contact:
    - (A) The court shall impose:
      - (i) A requirement that the person and, if the person is under the age of eighteen, the person’s parent or guardian attend an alcohol abuse education and counseling program for not more than ten hours; and
      - (ii) A one hundred eighty-day prompt suspension of license and privilege to operate a vehicle with absolute prohibition from operating a vehicle during the suspension period, or in the case of a person eighteen years of age or older, the court may impose, in lieu of the one hundred eighty-day prompt suspension of license, a minimum thirty-day prompt suspension of license with absolute prohibition from operating a vehicle and, for the remainder of the one hundred eighty-day period, a restriction on the license that allows the person to drive for limited work-related purposes and to participate in alcohol abuse education and treatment programs; and
    - (B) In addition, the court may impose any one or more of the following:
      - (i) Not more than thirty-six hours of community service work; or
      - (ii) A fine of not less than \$150 but not more than \$500;
  - (2) For a violation ~~[committed by a highly intoxicated driver or]~~ that occurs within five years of a prior alcohol enforcement contact:
    - (A) The court shall impose prompt suspension of license and privilege to operate a vehicle for a period of one year with absolute prohibition from operating a vehicle during the suspension period; and
    - (B) In addition, the court may impose any of the following:
      - (i) Not more than fifty hours of community service work; or
      - (ii) A fine of not less than \$300 but not more than \$1,000; and
  - (3) For a violation that occurs within five years of two prior alcohol enforcement contacts:
    - (A) The court shall impose revocation of license and privilege to operate a vehicle for a period of two years; and
    - (B) In addition, the court may impose any of the following:
      - (i) Not more than one hundred hours of community service work; or
      - (ii) A fine of not less than \$300 but not more than \$1,000.”

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2007.

(Approved June 19, 2007.)

A Bill for an Act Relating to the Crime Victim Compensation Commission.

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

SECTION 1. The legislature finds that it is necessary to encourage people to apply for positions on the crime victim compensation commission to ensure that the commission is staffed sufficiently.

The purpose of this Act is to encourage people to apply for positions on the crime victim compensation commission by excepting applicants from the civil service law as established in chapter 76, Hawaii Revised Statutes, but providing new staff members with the right to bargain collectively, as established in chapter 89, Hawaii Revised Statutes.

SECTION 2. Section 351-69, Hawaii Revised Statutes, is amended to read as follows:

**“§351-69 Commission staff.** (a) Supervisory, administrative, and clerical personnel necessary for the efficient functioning of the commission shall be appointed as provided in section 26-35[-] without regard to chapter 76, but subject to chapter 89, and provided that:

- (1) No position filled as of the effective date of this Act by an employee appointed pursuant to chapter 76 shall be affected by this Act; and
- (2) Upon becoming vacant, any position filled as of the effective date of this Act by an employee appointed pursuant to chapter 76 shall be filled by an employee appointed without regard to chapter 76.

(b) An executive director and an administrative assistant shall be appointed, without regard to [chapter 76], for the proper administration and enforcement of this chapter.”

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

SECTION 4. This Act shall take effect upon approval.

(Approved June 19, 2007.)

A Bill for an Act Relating to Campaign Spending.

*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- Reporting deadline.** When any reporting deadline falls on a Saturday, Sunday, or holiday designated in section 8-1, the reporting deadline shall be the next succeeding day that is not a Saturday, Sunday, or holiday.”

SECTION 2. Section 11-191, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “contribution” to read as follows:

““Contribution” [means]:

(1) Means:

- (A) A gift, subscription, deposit of money or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to fundraisers for the purpose of:
- ~~[(A)]~~ (i) Influencing the nomination for election, or election, of any person to office;
- ~~[(B)]~~ (ii) Influencing the outcome of any question or issue that appears or is reasonably certain to appear on the ballot at the next applicable election described in ~~[subparagraph (A); or]~~ clause (i); or
- ~~[(C)]~~(iii) Use by any party or committee for the purposes set out in ~~[subparagraph (A) or (B);]~~ clause (i) or (ii);
- ~~[(2)]~~ (B) The payment, by any person, political party, or any other entity other than a candidate or committee, of compensation for the personal services or services of another person that are rendered to the candidate or committee without charge or at an unreasonably low charge for the purposes set out in ~~[paragraph (1)(A); (1)(B), or (1)(C);]~~ subparagraph (A); or
- ~~[(3)]~~ (C) A contract, promise, or agreement to make a contribution; provided that notwithstanding this ~~[paragraph and paragraphs (1) and (2);]~~ subparagraph and subparagraphs (A) and (B), the term “contributions” shall not include services or portions thereof voluntarily provided without reasonable compensation by individuals to or in behalf of a candidate or committee~~[-; or]~~.
- ~~[(4)]~~ Notwithstanding ~~[paragraphs (1), (2), and (3);]~~ subparagraphs (A), (B), and (C), a candidate’s expenditure of the candidate’s own funds or the making of a loan or advance in the pursuit of the candidate’s campaign shall not be a contribution for the purpose of this subpart but shall nevertheless be reportable as a campaign receipt~~[-];~~
- (2) Does not include an individual or committee engaging in Internet activities for the purpose of influencing an election if:
- (A) The individual or committee is uncompensated for the Internet activities; or
- (B) The individual or committee uses equipment or services for uncompensated Internet activities, regardless of who owns the equipment and services.

For purposes of this exclusion, “Internet activities” includes sending or forwarding electronic messages; providing a hyperlink or other direct access to another person’s website; blogging; creating, maintaining, or hosting a website; paying a nominal fee for the use of another person’s website; and any other form of communication distributed over the Internet.

For purposes of this paragraph, “equipment and services” includes computers, software, Internet domain names, Internet service providers, and any other technology that is used to provide access to or use of the Internet.

This paragraph does not apply to any payment for an advertisement other than a nominal fee; the purchase or rental of an e-mail address list

made the direction of a committee; or an e-mail address list that is transferred to a committee.”

2. By amending the definition of “expenditure” to read as follows:

““Expenditure” [means]:

- (1) Means:<sup>1</sup>
  - (A) Any purchase or transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, or payment incurred or made, or the use or consumption of a nonmonetary contribution for the purpose of:
    - ~~[(A)]~~ (i) Influencing the nomination for election, or election, of any person seeking nomination for election, or election, to office whether or not the person has filed the person’s nomination paper;
    - ~~[(B)]~~ (ii) Influencing the outcome of any question or issue that has been certified to appear on the ballot at the next applicable election; or
    - ~~[(C)]~~ (iii) Use by any party or committee for the purposes set out in ~~[subparagraph (A) or (B)]~~ clause (i) or (ii);
  - ~~[(2)]~~ (B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person that are rendered to the candidate or committee for any of the purposes mentioned in ~~[paragraph (1)]~~ subparagraph (A); or
  - ~~[(3)]~~ (C) The expenditure by a candidate of the candidate’s own funds for the purposes set out in paragraph (1).
  - ~~[(4)]~~ The term does not include volunteer personal services and voter registration efforts that are not partisan.
- (2) Does not include an individual or committee engaging in Internet activities for the purpose of influencing an election if:
  - (A) The individual or committee is uncompensated for Internet activities; or
  - (B) The individual or committee uses equipment or services for uncompensated Internet activities, regardless of who owns the equipment and services.

For purposes of this paragraph, “Internet activities” includes sending or forwarding electronic messages; providing a hyperlink or other direct access to another person’s website; blogging; creating, maintaining, or hosting a website; paying a nominal fee for the use of another person’s website; and any other form of communication distributed over the Internet.

For purposes of this paragraph, “equipment and services” includes computers, software, Internet domain names, Internet service providers, and any other technology that is used to provide access to or use of the Internet.

This paragraph does not apply to any payment for an advertisement other than a nominal fee; the purchase or rental of an e-mail address list made at the direction of a committee; or an e-mail address list that is transferred to a committee.”

SECTION 3. Section 11-194, Hawaii Revised Statutes, is amended to read as follows:

**“§11-194 Registration.** (a) Each candidate[;] or noncandidate committee[; or party] shall [file] register with the commission by filing an organizational report as set forth in section 11-196 or 11-196.5 as applicable.

~~[(b) Committees that form within ten days of any election and expend in the aggregate more than \$1,000 for the election shall register and fully disclose the expenditure by 4:30 p.m. on the last calendar day prior to the expenditure.~~

~~[(e)] (b) Each candidate [who files nomination papers for office with the chief election officer or county clerk] shall file an organizational report within ten days of:~~

- (1) Filing the nomination papers for office; or
- (2) The date the candidate or candidate’s committee receives contributions or makes expenditures that amount to more than \$100 in the aggregate during the applicable election period[-], whichever occurs first.

~~[(d)] (c) An elected official who is seeking [re-election] reelection to the same office in successive elections shall not be required to file an organizational report under this section unless the candidate is required to report a change in information pursuant to section 11-196(b); provided that the candidate has not sought election to any other office during the period between elections.~~

~~[(e)] (d) A noncandidate committee shall file an organizational report within ten days of receiving contributions or making expenditures that amount to more than \$1,000, in the aggregate, in a two-year election period[-]; except that within the thirty day period prior to an election, a noncandidate committee shall file an organizational report within two days of receiving contributions or making expenditures that amount to more than \$1,000, in the aggregate, in a two-year election period.”~~

SECTION 4. Section 11-195, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) For purposes of this subpart, whenever a report is required to be filed with the commission, “filed” means received in the office of the commission or county clerk, whichever is applicable, by the date and time specified for the filing of the report; except that a noncandidate committee required to be registered with the commission pursuant to section 11-194(d), and a candidate or the committee of a candidate who is seeking election to the:

- (1) Office of governor;
- (2) Office of lieutenant governor;
- (3) Office of mayor;
- (4) Office of prosecuting attorney;
- (5) County council;
- (6) Senate;
- (7) House of representatives; [øf]
- (8) Office of Hawaiian affairs[;]; or
- (9) Board of education,

~~shall file by electronic means in the manner prescribed by the commission. [Candidates for the offices named in this subsection with contributions or expenditures of less than \$5,000 need not file by electronic means. A candidate or candidate committee without access to a computer or the Internet may request a waiver from electronic filing from the commission.]”~~

SECTION 5. Section 11-203, Hawaii Revised Statutes, is amended to read as follows:

**“§11-203 Fundraisers and fundraising activities.** (a) As used in this section, “fundraiser” means any function held for the benefit of a person that is

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intended or designed, directly or indirectly, to raise funds for political purposes for which the price or suggested contribution for attending the function is more than \$25 per person.

~~[(b) There shall be no more than two fundraisers held for a person prior to a general or special election in which that person is either elected or defeated.~~

~~(e) (b) No fundraiser or fundraising activity shall be held unless a notice of intent to hold the function is filed by the person in charge of the function with the commission prior to the date of the function setting forth the name and address of the person in charge, the price per person, the date, hour, and place of the affair and the method thereof.~~

~~[(d) Fundraisers sponsored by a candidate for a statewide office are exempt from the \$25 limit of subsection (a) and the restrictions of subsection (b), and fundraisers sponsored by a party for a political purpose for the general benefit of the party are exempt from the restrictions of subsection (b).]”~~

SECTION 6. Section 11-204.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§11-204.5**~~]]~~ **Limit on contributions from nonresident individuals and persons.** Contributions from ~~[any individual or any person as defined in section 11-191,]~~ all persons, except for a member of the candidate’s immediate family, who ~~[is]~~ are not ~~[a resident]~~ residents of the State at the time the contributions are made, including a noncandidate committee organized under the laws of another state and whose participants are not residents of the State, shall not exceed twenty per cent of the total contributions received by a candidate or candidate’s committee for each reporting period.”

SECTION 7. Section 11-207.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each candidate, candidate’s committee, or committee, that within the period of ~~[fifteen]~~ fourteen calendar days through four calendar days prior to a primary, special primary, general, or special general election, makes contributions aggregating more than \$500, or receives contributions from any person or entity aggregating more than \$500, shall file a report with the commission or appropriate county clerk’s office on forms provided by the commission, no later than 4:30 p.m., three calendar days prior to the election.”

SECTION 8. Section 11-212, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a)(1) The candidate committee of each candidate whose name will appear on the ballot in the immediately succeeding election shall file a preliminary report with the commission or appropriate county clerk’s office. Preliminary reports shall be filed on forms provided by the commission no later than 4:30 p.m. on the following dates:
- (A) July ~~[thirtieth]~~ thirty-first of the year of the primary election;
  - (B) Ten calendar days prior to each primary and initial special election; and
  - (C) Ten calendar days prior to a special or general election.
- (2) Each report shall be certified pursuant to section 11-195 and shall contain the following information which shall be current through ~~[the thirtieth calendar day]~~ June 30 prior to the filing of the report filed on the ~~[thirtieth]~~ thirty-first of July and fifth calendar day prior to the filing of other preliminary reports:

- (A) The aggregate sum of all contributions and other campaign receipts received;
- (B) The amount and date of deposit of the contribution and the name and address of each donor who contributes an aggregate of more than \$100 during an election period, which has not previously been reported; provided that if all the information is not on file, the contribution shall be returned to the donor within thirty days of deposit;
- (C) The amount and date of deposit of each contribution and the name, address, employer, and occupation of each donor who contributes an aggregate of \$1,000 or more during an election period, which has not previously been reported; provided that if all the information is not on file, the contribution shall be returned to the donor within thirty days of deposit;
- (D) All expenditures made, incurred, or authorized by or for a candidate, including the name and address of each payee and the amount, date, and purpose of each expenditure; and
- (E) A current statement of the balance on hand or deficit.”

SECTION 9. Section 11-213, Hawaii Revised Statutes, is amended by amending subsections (f) and (g) to read as follows:

“(f) Deficit. In the event of a deficit the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall, every six months until the deficit is eliminated, file supplemental reports covering all items prescribed in subsection (a) or subsection (b) in the case of noncandidate committees. The first report shall be due no later than 4:30 p.m. on the ~~[thirtieth]~~ thirty-first day after the last day of the election year.

(g) Surplus. In the event of a surplus the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall:

- (1) Maintain the cash surplus in a financial depository; and
- (2) Every six months, until the candidate files to be on the ballot with the state office of elections, or in the case of a party or committee until they participate in an election again, file supplemental reports detailing all items prescribed in subsection (a) or in the case of a noncandidate committee until they participate in an election again, or file supplemental reports detailing all items prescribed in subsection (b).

The first report shall be due not later than 4:30 p.m. on the ~~[thirtieth]~~ thirty-first calendar day after the last day of the election year.”

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

SECTION 11. This Act shall take effect upon its approval; provided that section 4 shall apply to reporting periods beginning on January 1, 2008.

(Approved June 20, 2007.)

#### Notes

1. Colon should be underscored.

2. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Emergencies.

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

SECTION 1. Chapter 201B, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“**§201B-A Tourism emergency.** (a) If the board determines that the occurrence of a world conflict, terrorist threat, natural disaster, outbreak of disease, or other catastrophic event, regardless of when or where it occurs, adversely affects Hawaii’s tourism industry by resulting in a substantial interruption in the commerce of the state and adversely affecting the welfare of its people, the board shall submit a request to the governor to declare that a tourism emergency exists.

(b) Upon declaration by the governor that a tourism emergency exists pursuant to subsection (a), the authority shall develop and implement measures to respond to the tourism emergency, including providing assistance to tourists during the emergency; provided that any tourism emergency response measure implemented pursuant to this subsection shall not include any provision that would adversely affect the organized labor force in tourism-related industries.

**§201B-B Tourism emergency trust fund.** (a) There is established outside the state treasury a tourism emergency trust fund to be administered by the board as trustee, into which shall be deposited the revenues prescribed by section 237D-6.5(b). All investment earnings from moneys in the trust fund shall be credited to the tourism special fund.

(b) Moneys in the trust fund shall be used exclusively to provide for the development and implementation of emergency measures to respond to any tourism emergency pursuant to section 201B-A, including providing emergency assistance to tourists during the tourism emergency.

(c) Use of the trust fund, consistent with subsection (b), shall be provided for in articles, bylaws, resolutions, or other instruments executed by the board as trustee for the trust fund.”

SECTION 2. Section 201B-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as otherwise limited by this chapter, the authority 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; provided that the authority may enter into contracts and agreements for a period of up to five years, subject to the availability of funds; and provided further that the authority may enter into agreements for the use of the convention center facility for a period of up to ten years;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Unless otherwise provided in this chapter, adopt rules in accordance with chapter 91 with respect to its projects, operations, properties, and facilities;
- (6) Through its executive director represent the authority in communications with the governor and [with] the legislature;

- (7) Through its executive director, provide for the appointment of officers, agents, and employees, subject to the approval of the board, prescribing their duties and qualifications, and fixing their salaries, without regard to chapters 76 and 78, if there is no anticipated revenue shortfall in the tourism special fund and funds have been appropriated by the legislature and allotted as provided by law;
- (8) Through its executive director purchase supplies, equipment, or furniture;
- (9) Through its executive director allocate the space or spaces [~~which~~] that are to be occupied by the authority and appropriate staff;
- (10) Engage the services of qualified persons to implement the State's tourism marketing plan or portions thereof as determined by the authority;
- (11) Engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (12) 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;
- (13) Contract for or accept revenues, compensation, proceeds, and gifts or grants in any form from any public agency or any other source, including any revenues or proceeds arising from the operation or use of the convention center;
- (14) Develop, coordinate, and implement state policies and directions for tourism and related activities taking into account the economic, social, and physical impacts of tourism on the State and its natural resources infrastructure; provided that the authority shall support the efforts of other state and county departments or agencies to manage, improve, and protect Hawaii's natural environment and areas frequented by visitors;
- (15) Have a permanent, strong focus on marketing and promotion;
- (16) Conduct market development-related research as necessary;
- (17) Coordinate all agencies and advise the private sector in the development of tourism-related activities and resources;
- (18) Work to eliminate or reduce barriers to travel in order to provide a positive and competitive business environment, including coordinating with the department of transportation on issues affecting airlines and air route development;
- (19) Market and promote sports-related activities and events;
- (20) Coordinate the development of new products with the counties and other persons in the public [~~sectors~~] sector and private [~~sectors;~~] sector, including the development of sports, culture, health and wellness, education, technology, agriculture, and nature tourism;
- (21) Establish a public information and educational program to inform the public of tourism and tourism-related problems;
- (22) Encourage the development of tourism educational, training, and career counseling programs;
- (23) Establish a program to monitor, investigate, and respond to complaints about problems resulting directly or indirectly from the tourism industry and taking appropriate action as necessary;
- (24) Develop and implement emergency measures to respond to any adverse effects on the tourism industry, pursuant to section 201B-A;
- [~~24~~] (25) Set and collect rents, fees, charges, or other payments for the lease, use, occupancy, or disposition of the convention center facility without regard to chapter 91;

- ~~[(25)]~~ (26) Notwithstanding ~~[the provisions of]~~ chapter 171, acquire, lease as lessee or lessor, own, rent, hold, and dispose of the convention center facility in the exercise of its powers and the performance of its duties under this chapter; and
- ~~[(26)]~~ (27) 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 facility.”

SECTION 3. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Revenues collected under this chapter shall be distributed as follows, with the excess revenues to be deposited into the general fund:

- (1) 17.3 per cent of the revenues collected under this chapter shall be deposited into the convention center enterprise special fund established under section 201B-8; provided that beginning January 1, 2002, if the amount of the revenue collected under this paragraph exceeds \$33,000,000 in any calendar year, revenues collected in excess of \$33,000,000 shall be deposited into the general fund;
- (2) 34.2 per cent of the revenues collected under this chapter shall be deposited into the tourism special fund established under section 201B-11 for tourism promotion and visitor industry research; provided that beginning on July 1, 2002~~[-]~~, ~~[(A) 0%]~~ of the first \$1,000,000 in revenues deposited:
  - ~~[(+)]~~ (A) Ninety per cent shall be deposited into the state parks special fund established in section 184-3.4; and
  - ~~[(+)]~~ (B) Ten per cent shall be deposited into the special land and development fund established in section 171-19 for the Hawaii statewide trail and access program;

provided that of the 34.2 per cent, 0.5 per cent shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; provided further that of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency trust fund, established in section 201B-B, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency trust fund; and
- (3) 44.8 per cent of the revenues collected under this chapter shall be transferred as follows: 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.”

SECTION 4. In codifying the new sections added by section 1 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 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved June 20, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 202**

H.B. NO. 1307

A Bill for an Act Relating to Business Registration.

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

SECTION 1. Section 414D-273, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A foreign corporation may apply for a certificate of authority to transact business in this State by delivering an application to the department director for filing. The application shall set forth:

- (1) The name of the foreign corporation or, if its name is unavailable for use in this State, a corporate name that satisfies the requirements of section 414D-276;
- (2) The name of the state or country under whose law it is incorporated;
- (3) The date of incorporation and period of duration;
- (4) The mailing address of the corporation’s principal office, the street address of its [initial] registered office in this State, and the name of its [initial] registered agent at its [initial] registered office[;] in this State;
- (5) The names and usual business [~~or home~~] addresses of its current directors and officers; and
- (6) Whether the foreign corporation has members.”

SECTION 2. Section 428-1002, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A foreign limited liability company may apply for a certificate of authority to transact business in this State by delivering an application to the director for filing. The application shall set forth:

- (1) The name of the foreign limited liability company or, if its name is unavailable for use in this State, a name that satisfies the requirements of section 428-1005;
- (2) The name of the state or country under whose law it is organized;
- (3) A representation and warranty that a list of the names of and addresses of all members and their respective capital contributions are kept and will be kept at its principal office until cancellation, in accordance with section 428-1007, of the foreign limited liability company’s authority to transact business in this State;
- (4) The mailing address of its principal office, the street address of its [initial] registered office in this State, and the name of its [initial] registered agent at its [initial] registered office in this State;
- (5) Whether the duration of the company is for a specified term and, if so, the period specified;
- (6) Whether the company is manager-managed, and:
  - (A) If so, the name and address of each manager; or
  - (B) If not, the name and address of each member;

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- (7) Whether the members of the company are to be liable for its debts and obligations under a provision similar to section 428-303(c); and
- (8) Any additional information as may be necessary or appropriate to enable the director to determine whether the foreign limited liability company is entitled to obtain authority to transact business in this State.”

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

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved June 20, 2007.)

## ACT 203

H.B. NO. 835

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 Del Monte Fresh Produce will have a significant adverse effect on pineapple workers. Housing ranks among their primary concerns. Currently, many employees, retirees, and their families live in plantation homes owned by the company at the Kunia camp and by Hawaiian Island Homes at the Poamoho camp. With the closure of Del Monte Fresh Produce, many of these families face the possibility of losing their homes. Housing is a fundamental need, to which every person should have access.

With the loss of their jobs, many pineapple workers and retirees will undergo a transition period as they seek new employment, participate in job training programs, or seek other opportunities. While employee incomes may be greatly diminished, workers and retirees must continue to make their housing payments and meet other living expenses. Many former employees and retirees in transition may find it difficult to retain their homes.

The legislature finds that providing assistance to these workers, retirees, and their families is for the benefit of the public health, safety, and welfare of the State.

The purpose of this Act is to assist former Del Monte Fresh Produce pineapple workers and retirees in danger of losing their homes by establishing a pineapple workers and retirees housing assistance fund to help eligible homeowners keep up with their mortgage payments and provide rental subsidies.

SECTION 2. Chapter 201H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§201H- Pineapple workers and retirees housing assistance fund; established.** (a) There is established in the state treasury the pineapple workers and retirees housing assistance fund to provide mortgage payments or rent subsidies for eligible Del Monte Fresh Produce pineapple workers and retirees and their families who are displaced or affected by the closure of Del Monte Fresh Produce. The pineapple workers and retirees housing assistance fund shall be administered by the corporation.

(b) Moneys appropriated for the purposes of this section shall be deposited into the pineapple workers and retirees housing assistance fund; provided that, upon fulfillment of the purposes of this section, all unencumbered moneys shall lapse into

the general fund. The corporation shall establish guidelines with respect to eligible Del Monte Fresh Produce pineapple workers and retirees and mortgage payments or rental assistance payments under this section.

(c) The corporation shall adopt rules in accordance with chapter 91 to effectuate the purposes of this section.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$600,000 for fiscal year 2007-2008 and the same sum for fiscal year 2008-2009 for deposit into the pineapple workers and retirees housing assistance fund established under section 201H- , Hawaii Revised Statutes.

SECTION 4. There is appropriated out of the pineapple workers and retirees housing assistance fund the sum of \$600,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 to provide mortgage payments or rent subsidies for eligible Del Monte Fresh Produce pineapple workers and retirees and their families who are displaced or affected by the closure of Del Monte Fresh Produce and to fund related administrative activities.

The sums appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this Act.

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved June 21, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 204**

S.B. NO. 1916

A Bill for an Act Relating to Caregiving.

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

**PART I  
FINDINGS AND PURPOSE**

SECTION 1. The legislature finds that, due to a shortage of care providers in Hawaii, family caregiving has become a critical element of our health and long-term care system. By 2020, more than one in four individuals is expected to be sixty years old or older. The need for personal care assistance due to physical, sensory, cognitive, and self-care disabilities increases with age. As Hawaii’s population ages, many more families will be providing higher levels of long-term care to frail and disabled older adults at home.

A comprehensive public policy to strengthen support for family caregivers is essential. The joint legislative committee on family caregiving was established under Act 285, Session Laws of Hawaii 2006, to develop a comprehensive public policy to strengthen support for family caregivers in Hawaii.

The committee held numerous meetings during the fall of 2006 and submitted a special committee report to the legislature outlining its proposal for the establishment of a comprehensive and sustainable, community-based family caregiver support system that will maximize resources in all communities. However, it is

still necessary to gather more information on this subject to enable the State to apply resources and services in a more efficacious manner. The committee should be extended to enable it to continue work on its proposal for the establishment of a comprehensive and sustainable, community-based family caregiver support system.

Numerous testifiers appeared before the committee on behalf of grandparents in support of recognizing their role as family caregivers for their grandchildren. According to the United States Census Bureau, between 1990 and 2000, there was an over thirty per cent increase in the number of children under age eighteen living in grandparent-headed households in Hawaii. Of the 14,029 grandparents in Hawaii who report that they are responsible for their resident grandchildren, over one-fifth also report that the children's parents are not present in the household.

The national family caregiver support program under the reauthorized Older Americans Act includes grandparents of grandchildren age eighteen years and younger or nineteen years of age or older with physical or cognitive limitations. Grandparents who are caregivers experience similar support needs and caregiving costs as do family caregivers who provide unpaid, informal assistance to older adults with physical or cognitive disabilities. Custodial grandparenting has emotional, physical, and financial costs. Custodial grandparents report more anxiety, depression, and physical health problems than their non-caregiving peers, and they need accurate and accessible information on a myriad of issues.

A crucial element in the design and implementation of a comprehensive and sustainable, community-based family caregiver support system is an assessment of the needs of family caregivers and the care recipients. A thorough needs assessment is imperative to appropriately encourage, support, and strengthen the provision of family caregiving.

The delivery of long term care in Hawaii and, indeed, throughout the United States is fragmented and uncoordinated. As a result, frail and disabled persons of all ages have difficulty in getting information about existing services, and in obtaining appropriate assistance. In 2005, Hawaii received a federal grant to develop an aging and disability resource center program. This program is designed to help family caregivers and older and disabled adults find the information they need regarding available options for care. To date, an aging and disability resource center is under development in the county of Hawaii, and a "virtual" site is planned for the city and county of Honolulu. Additional funds are needed to fully develop this program.

Family caregivers who provide care to recipients with chronic or disabling conditions are themselves at risk for physical, emotional, and financial problems. The daily challenges and health risks that family caregivers face can impede the family caregiver's ability to provide care, lead to higher health care costs, and affect the family caregiver's quality of life and the quality of life of the care recipient.

For many family caregivers, their role as family caregiver arises as suddenly as the care recipient's health declines, leaving family caregivers with an immediate need for services, but little preparation or education regarding who to contact for assistance or what services are available to them. In addition, the family caregivers may not know who is capable or qualified to provide them with the services that they or the care recipients need. Family caregivers themselves need support services, including respite services and training, education, and counseling in areas such as caregiving and dealing with end-of-life issues.

Kupuna care is a statewide long-term care program, administered by the executive office on aging, which was developed in partnership with the county area agencies on aging to address the growing numbers of elders with long-term care needs. Services provided by kupuna care are intended to help meet the needs of older adults who cannot live at home without adequate help from family or formal caregiving services, and include services such as adult day care, respite care, assisted transportation, attendant care, case management, chore, home delivered meals,

homemaker, transportation, and personal care. In addition to the services provided to the elderly, direct services to family caregivers can be provided to educate and assist family caregivers in coping with their roles as a caregiver.

Under Act 262, Session Laws of Hawaii 2006, the executive office on aging is required to coordinate a statewide system of caregiver support services. An appropriation should be made to assist the executive office on aging's caregiver's resource initiative project to enable it to continue its efforts in that regard.

A number of approaches have been suggested as a means to help family caregivers with the financial costs of family caregiving, including a cash and counseling program and a family caregiver refundable tax credit. However, more research and analyses of these different approaches are necessary to ensure that the State applies its resources and services toward helping family caregivers in the most efficacious manner.

The purpose of this Act is to strengthen support of family caregiving by:

- (1) Extending the life of the joint legislative committee on family caregiving;
- (2) Authorizing the joint legislative committee to explore establishing a paid family leave program under the state temporary disability insurance law;
- (3) Providing a broader definition of "family caregiver" by including grandparents who are caregivers for grandchildren who are age eighteen years or younger or nineteen years of age or older with physical or cognitive limitations;
- (4) Requiring the joint legislative committee on caregiving to conduct a comprehensive assessment of the needs of care recipients who are age sixty and older with physical or cognitive disabilities, and the needs of their family caregivers;
- (5) Appropriating funds to supplement development of the aging and disability resource center program;
- (6) Appropriating funds to expand the kupuna care program's in-home and access services for qualified care recipients;
- (7) Appropriating funds to provide direct services to family caregivers.

## PART II JOINT LEGISLATIVE COMMITTEE ON FAMILY CAREGIVING

SECTION 2. Act 285, Session Laws of Hawaii 2006, is amended by amending section 2 to read as follows:

"SECTION 2. (a) There is established a joint legislative committee on family caregiving. The committee shall be composed of eight members as follows:

- (1) Four members of the house of representatives, consisting of three members from the majority party and one member from the minority party, who shall be appointed by the speaker of the house of representatives; and
- (2) Four members of the senate, consisting of three members from the majority party and one member from the minority party, who shall be appointed by the president of the senate.

The committee shall select a chairperson from its membership.

(b) The joint legislative committee shall develop comprehensive public policy to strengthen support for family caregivers [~~who provide unpaid, informal assistance to persons age sixty and older with physical or cognitive disabilities~~]. For purposes of this Act, "family caregiver" means:

- (1) A person, including a non-relative such as a friend or neighbor, who provides unpaid, informal assistance to a person age sixty and older with physical or cognitive disabilities; and
- (2) A grandparent who is a caregiver for a grandchild who is age eighteen years or younger, or who is nineteen years of age or older with physical or cognitive limitations.
- (c) The joint legislative committee shall ~~consider~~:
  - (1) ~~Consider~~ providing support in categories including ~~[but not limited to]~~:
    - ~~[(1)]~~ (A) Coordinated services and policies;
    - ~~[(2)]~~ (B) Training and education;
    - ~~[(3)]~~ (C) Respite services;
    - ~~[(4)]~~ (D) Financial incentives; and
    - ~~[(5)]~~ (E) Balancing work and caregiving[-]; and
  - (2) Explore establishing a paid family leave program under the state temporary disability insurance law, similar to the California Paid Family Leave Program, to provide wage replacement benefits to employees who take time off from work to care for a seriously ill family member.
- (d) The joint legislative committee shall seek input from the department of health, the department of human services, the department of taxation, the University of Hawaii, the executive office on aging, and the elderly, disability, business, and faith-based communities.
- (e) The joint legislative committee shall submit its findings and recommendations to the legislature no later than twenty days prior to the convening of the regular ~~[session] sessions~~ of 2007[-] and 2008.
- (f) The joint legislative committee shall cease to exist on ~~[June 30, 2007-] June 30, 2008.~~”

### PART III NEEDS ASSESSMENT OF FAMILY CAREGIVERS

SECTION 3. (a) The joint legislative committee on family caregiving shall conduct a comprehensive assessment of the needs of care recipients who are age sixty years and older with physical or cognitive disabilities and the needs of their family caregivers. The needs assessment should include an evaluation of:

- (1) The extent of the unmet caregiving needs of persons age sixty years and older with physical or cognitive disabilities;
- (2) The size of the current family caregiver population;
- (3) The percentage of care recipients’ needs being met by paid versus unpaid caregivers; and
- (4) The impact of caregiving on family caregivers’ employment and income.

(b) In conducting the needs assessment, the joint legislative committee on family caregiving shall identify and review past surveys, such as the *2003 Hawaii Health Survey*, include focus groups, and develop policy questions to guide the focus of the needs assessment.

(c) In conducting the needs assessment, the joint legislative committee on family caregiving may utilize telephone surveys or other methods of gathering reliable data regarding care recipients’ needs and the needs of their family caregivers, including purchasing additional questions for the upcoming *Hawaii Health Survey*.

(d) The joint legislative committee on family caregiving shall incorporate the completed needs assessment into the joint legislative committee report to the legislature.

(e) For purposes of this section, “family caregiver” means a person, including a non-relative such as a friend or neighbor, who provides unpaid, informal assistance to a person age sixty and older with physical or cognitive disabilities.

SECTION 4. The joint legislative committee on family caregiving shall submit a report, including the completed needs assessment pursuant to section 3 and any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2008.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$120,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the joint legislative committee on family caregiving, which may contract with a qualified consultant, to conduct a comprehensive needs assessment of family caregivers pursuant to section 3. A contract executed pursuant to this section and section 3 shall be exempt from chapter 103D, Hawaii Revised Statutes; provided that the joint legislative committee shall endeavor to ensure transparency in the letting of the contract. The sum appropriated shall be allotted as follows:

Senate	\$60,000
House of representatives	\$60,000

The sum appropriated shall be expended by the senate and the house of representatives to assist the joint legislative committee on family caregiving for the purposes of this part.

**PART IV  
NEEDS ASSESSMENT OF GRANDPARENTS RAISING  
GRANDCHILDREN**

SECTION 6. The executive office on aging, or its consultant, shall conduct an assessment of the issues facing, and the needs of grandparents raising grandchildren in Hawaii. The executive office on aging shall submit a report, including the completed needs assessment and any proposed legislation, to the joint legislative committee on family caregiving by November 7, 2007.

**PART V  
AGING AND DISABILITY RESOURCE CENTER**

SECTION 7. The delivery of long term care in Hawaii has characteristically been uncoordinated, making it difficult for consumers to obtain information about long term care options and services. Much of this has to do with the fact that different programs have their own eligibility requirements, funding mandates, care benefits, provider participation regulations, administrative structure, and service delivery mechanisms. Consequently, it is difficult to coordinate a comprehensive continuum of long term care (ranging from nursing homes to home- and community-based services) for the elderly and the disabled.

In 2005, Hawaii was selected to receive a grant from the United States Department of Health and Human Services to develop an aging and disability resource center program. The grant is intended to help Hawaii develop “one-stop shop” programs at the community level that can serve as the entry point to the long term services and support system. The vision is to have resource centers in every community serving as highly visible and trusted places where people can turn for information on the full range of long term care support options, and with a streamlined process for screening, intake, assessment, and eligibility determination. Long term care support refers to a wide range of in-home, community-based, and institutional services and programs that are designed to help individuals with disabilities.

The executive office on aging, in partnership with the Hawaii county office of aging and the city and county of Honolulu elderly affairs division, is already

developing an aging and disability resource center in Hawaii county. The three-year project commenced in October, 2005, and is due for completion by September, 2008. A second resource center is planned for the city and county of Honolulu. A state advisory board has already been established to provide public input and feedback on the project development and to develop a statewide access plan for future replication. Each project will also have its own steering committee or advisory board at the county level to assist in the specific site development.

The Hawaii county project received additional funding from the Hawaii county council, with support from the Hawaii county mayor, to enable the project to lease the former Sun Sun Lau Chinese Restaurant in Hilo as the physical site. Renovations are currently underway at the Hilo site with a target completion date of late 2007. The Hawaii county office of aging will co-locate in this centralized facility with other aging and disability services and providers, including the department of human services' programs and the Legal Aid Society.

The city and county of Honolulu project will initially be a virtual site. It will build upon the city and county of Honolulu elderly affairs division's current senior hotline telephone information and assistance program and will develop a comprehensive resource website. The overall goal is to eventually establish aging and disability resource center sites in all of the counties to provide statewide access.

The legislature finds that the aging and disability resource center program will improve access to long term care information and options for family caregivers, the elderly, and the disabled by facilitating their search for needed services.

The purpose of this part is to support the aging and disability resource center program by appropriating funds to supplement its development. The funds shall be used to:

- (1) Contract with a management information consultant to:
  - (A) Identify management information system needs;
  - (B) Assist with vendor selection;
  - (C) Ensure compliance with management information system requirements;
  - (D) Provide resources and technical assistance for project evaluation, intake, and database development;
  - (E) Troubleshoot technical problems; and
  - (F) Assist with systems integration;
- (2) Purchase additional management information system products, including software licensing, server clusters, installation, staff training, computer hardware, and technical support;
- (3) Install a statewide toll-free telephone system for the public to contact the aging and disability resource center sites. This includes the installation of the single server number, telephone equipment, cable lines, phone system upgrades, and special equipment for the blind and deaf consumers;
- (4) Coordinate and implement consumer education and outreach campaigns, including outreach coordination, the production and printing of brochures and posters, media ads, presentations and exhibits at senior and disability events or focal centers, bilingual translation, and other promotional activities that will educate the consumers and general public about aging and disability resource center services;
- (5) Continue the coordination and implementation of the Hawaii county site;
- (6) Continue the coordination and implementation of the city and county of Honolulu site;
- (7) Continue the state-level coordination and evaluation activities of the project; and
- (8) Provide training to aging and disability resource center staff.

SECTION 8. 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 2007-2008 and the sum of \$230,000 or so much thereof as may be necessary for fiscal year 2008-2009 to the executive office on aging to support the continuous development of the aging and disability resource center project in Hawaii.

The sums appropriated shall be expended by the department of health for the purposes of this section.

## **PART VI SERVICES**

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$475,000 or so much thereof as may be necessary for fiscal year 2007-2008 and \$525,000 or so much thereof as may be necessary for fiscal year 2008-2009 to the executive office on aging to expand the kupuna care program's in-home and access services to qualified care recipients and to provide direct services to family caregivers.

The sums appropriated shall be expended by the department of health for the purposes of this part.

## **PART VII APPROACHES TO FINANCIAL NEEDS OF FAMILY CAREGIVERS**

SECTION 10. (a) The cash and counseling program is a national initiative sponsored by the Robert Wood Johnson Foundation; the United States Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation; and the Administration on Aging. Under the program, recipients of medicaid personal care services or home- and community-based services receive a flexible monthly allowance and decide who to hire and what services they want to receive.

The program's innovative approach enables participants to direct and manage their personal assistance services according to their own specific needs. Participants can choose a family member or friend, in lieu of an agency worker, to provide the services. They receive counseling and fiscal assistance to help them manage their allowance and responsibilities. The program was first implemented in Arkansas, New Jersey, and Florida, and has since expanded to include twelve other states.

The potential exists to establish a similar program here in Hawaii to serve the needs of residents receiving medicaid personal care services or home- and community-based services, as well as residents who are not medicaid recipients.

(b) A tax credit to caregivers who care for qualified care recipients is another approach to helping family caregivers defray some of the cost of providing invaluable caregiving services. One measure introduced during the 2007 legislative session, Senate Bill No. 1199, S.D. 2 (2007)<sup>1</sup>, provides eligible taxpayers with a refundable income tax credit on a sliding scale basis.

SECTION 11. (a) The executive office on aging shall:

- (1) Research the cash and counseling program and its implementation in other states, including Arkansas, New Jersey, and Florida;
- (2) In completing its research:
  - (A) Contact the national program office at the Boston college graduate school of social work, which coordinates replications of the program;
  - (B) Consult with the Robert Wood Johnson Foundation, the Office of the Assistant Secretary for Planning and Evaluation at the United

States Department of Health and Human Services, the Administration on Aging, the department of human services, and the department of health; and

- (C) Examine models that include individuals receiving medicaid personal care services or home- and community-based services, as well as individuals who are not medicaid recipients;
- (3) Submit an interim report of its research findings to the joint legislative committee on family caregiving by November 1, 2007.
- (b) The executive office on aging shall also:
  - (1) Prepare a cost-benefit analysis of a \$1,000, \$750, and \$500 family caregiver refundable tax credit as proposed in Senate Bill No. 1199, S.D. 2 (2007)<sup>1</sup>; and
  - (2) Submit a report, including the results of the cost-benefit analysis, to the joint legislative committee on family caregiving by November 1, 2007.

**PART VIII  
MISCELLANEOUS PROVISIONS**

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect upon its approval; provided that sections 5, 8, and 9 shall take effect on July 1, 2007; and further provided that section 2 shall take effect on June 29, 2007.

(Approved June 21, 2007.)

**Note**

- 1. Did not pass legislature.

**ACT 205**

S.B. NO. 987

A Bill for an Act Relating to Renewable Energy.

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

SECTION 1. The legislature finds that county easements required for the distribution of seawater air conditioning district cooling systems can only be obtained through a public auction process. Seawater air conditioning developers must conduct extensive and costly preliminary work to identify, evaluate, and obtain these county easements, often times with little ability to relocate the distribution system location. Accordingly, the legislature finds that a seawater air conditioning system developer should be allowed to obtain an easement through direct negotiation and without public auction.

The legislature further finds renewable energy projects are often complex, large-scale projects requiring a number of permits and that a major impediment to the private development of renewable energy projects has been complying with the diverse array of federal, state, and county land use planning, environmental, and related laws. The "Hawaii Integrated Energy Policy of 1991" found that the "permits and approvals that may be required for the development and siting of energy facilities . . . can take up to seven years for a single project." Given the economic and environmental benefits of these types of projects, serious consideration must be given to streamline and prioritize the permitting process to provide an amount of predictability that would encourage private companies to commit

the substantial amounts of capital, time, and effort necessary to develop such projects.

The purpose of this Act is to:

- (1) Amend the definition of “renewable energy producer” under section 171-95, Hawaii Revised Statutes, to include producers of thermal energy from renewable energy resources, including those who produce cooling from seawater air conditioning district cooling systems, so that they will be eligible to lease public land without public auction;
- (2) Allow each county to grant, sell, or otherwise dispose of easements for chilled water and seawater distribution systems for renewable energy seawater air conditioning district cooling systems by negotiation without public auction; and
- (3) Establish that it is the policy of the state and county governments to provide priority handling and processing on all state and county permits required for renewable energy projects.

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§46- Renewable energy projects.** All agencies shall provide priority handling and processing for all county permits required for renewable energy projects.

For purposes of this section, “agencies” means any executive department, independent commission, board, bureau, office, or other establishment of a county, or any quasi-public institution that is supported in whole or in part by county funds.”

SECTION 3. Chapter 196, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§196- Renewable energy projects.** All agencies shall provide priority handling and processing for all state permits required for renewable energy projects.

For purposes of this section, “agencies” means any executive department, independent commission, board, bureau, office, or other establishment of the State, or any quasi-public institution that is supported in whole or in part by state funds.”

SECTION 4. Section 46-66, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[§46-66]]~~ Disposition of real property.** Notwithstanding any other law to the contrary, each county, subject to the approval of the council, may grant, sell, or otherwise dispose of any easement, including easements over, under, through, and across land bordering the ocean, at public auction; provided that any easement for any governmental or public utility purpose or for chilled water and seawater distribution systems for renewable energy seawater air conditioning district cooling systems may be granted, sold, or otherwise disposed of by negotiation without public auction.”

SECTION 5. Section 171-95, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) For the purposes of this section, “renewable energy producer” means any producer of electrical or thermal energy produced by wind, solar energy, hydropower, landfill gas, waste-to-energy, ocean thermal energy conversion, cold seawater, wave energy, biomass, including municipal solid waste, biofuels or fuels

## ACT 205

derived from organic sources, hydrogen fuels derived primarily from renewable energy, or fuel cells where the fuel is derived primarily from renewable sources that sell all of the net power produced from the demised premises to an electric utility company regulated under chapter 269[-] or that sells all of the thermal energy it produces to customers of district cooling systems. Up to twenty-five per cent of the power produced by a renewable energy producer and sold to the utility or to district cooling system customers may be derived from fossil fuels.”

SECTION 6. Section 226-18, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(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 that the combination of energy supplies and energy-saving systems is 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;
- (4) Promote all cost-effective conservation of power and fuel supplies through measures, including:
  - (A) Development of cost-effective demand-side management programs;
  - (B) Education; and
  - (C) Adoption of energy-efficient practices and technologies;
- (5) Ensure, to the extent that new supply-side resources are needed, that the development or expansion of energy systems [utilizes] uses 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;
- (7) Promote alternate fuels and energy efficiency by encouraging diversification of transportation modes and infrastructure;
- (8) Support actions that reduce, avoid, or sequester greenhouse gases in utility, transportation, and industrial sector applications; ~~and~~
- (9) Support actions that reduce, avoid, or sequester Hawaii’s greenhouse gas emissions through agriculture and forestry initiatives[-]; ~~and~~
- (10) Provide priority handling and processing for all state and county permits required for renewable energy projects.”

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect upon approval.

(Approved June 21, 2007.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 206

H.B. NO. 1631

A Bill for an Act Relating to High Technology Business Investment Tax Credit.

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

SECTION 1. The legislature finds that it is difficult to evaluate whether the high technology business investment tax credit, first enacted in Act 178, Session Laws of Hawaii 1999, as amended, has been successful. Although the credit has poured millions of dollars into Hawaii's economy, accurate information with respect to the efficacy of the credit appears lacking. Reports by the department of taxation and the department of business, economic development, and tourism on the effectiveness of the investment and other high technology credits were confusing and inconsistent. All parties agree that a better evaluation is needed.

The purpose of this Act is to measure the effectiveness of Act 178 high technology business investment tax credit by requiring:

- (1) Qualified high technology businesses receiving an investment for which a credit may be claimed under section 235-110.9, Hawaii Revised Statutes, to submit investment, employment, job creation, wage, revenue, expense, and other information to the department of taxation;
- (2) The department of taxation to annually report this information in aggregate form to the legislature; and
- (3) The department of taxation to use the information to study the effectiveness of the tax credit and report the department's findings to the legislature.

SECTION 2. (a) A qualified high technology business that accepts an investment for which the credit under section 235-110.9, Hawaii Revised Statutes, may be claimed shall complete and file with the director of taxation through the department website, an annual survey on electronic forms prepared and prescribed by the department. The annual survey shall be filed before June 30 of each calendar year following the five calendar years in which the credit for the investment may be claimed under section 235-110.9, Hawaii Revised Statutes. The department may adjust the due date of the annual survey by rule.

(b) The annual survey shall include the following information for the time period or periods specified by the department:

- (1) Identification of the industry sector or sectors in which the qualified high technology business conducts business, as set forth in paragraphs (2) to (8) of the definition of "qualified research" in section 235-7.3, Hawaii Revised Statutes;
- (2) Investment credit data including the amount of investments received by the qualified high technology business in the reporting calendar year;
- (3) Revenue and expense data; and
- (4) Hawaii employment and wage data including the numbers of full and part-time employees retained, new jobs, and temporary positions.

The department shall request information in each of these categories sufficient to measure the effectiveness of the tax credit. The department may request any additional information necessary to measure the effectiveness of the tax credit such as information related to patents. In preparing the survey and requesting any additional information the department shall ensure that qualified high technology businesses are not subject to duplicative reporting requirements.

(c) A qualified high technology business required to file an annual survey under subsection (a) that fails to file the survey by the due date or any extension thereof, shall be assessed a penalty of \$1,000 per month for each month the annual

survey is not filed not to exceed a total of \$6,000 for every annual survey not filed. Penalties collected under this subsection shall be deposited into the tax administration special fund established under section 235-20.5, Hawaii Revised Statutes.

(d) The department shall use information collected under this section and through other reporting requirements of the department to prepare summary descriptive statistics by category. The information shall be reported at the aggregate level to prevent compromising identities of qualified high technology business investors or other confidential information. The department shall also identify each qualified high technology business that is the beneficiary of investments under section 235-110.9, Hawaii Revised Statutes. The department shall report the information required under this subsection to the legislature by September 1 of each year.

(e) The department shall use the information collected under this section to study the effectiveness of the credit under section 235-110.9, Hawaii Revised Statutes. The department shall report on the amount of investment made into qualified high technology businesses, the number of qualified high technology businesses in each industry sector, jobs created, compensation levels, qualified research activities, and other factors as the department determines. The department shall report the results of its study to the legislature by December 1 of each year.

(f) The department shall adopt rules pursuant to chapter 91 to implement this section.

SECTION 3. Section 235-20.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[§235-20.5]~~ **Tax administration special fund; established.** There is established a tax administration special fund, into which shall be deposited fees collected under sections 235-20, 235-110.9, and 235-110.91[-], and penalties collected under section 2 of Act 206. The moneys in the fund shall be expended by the department to offset the costs associated with:

- (1) Issuing comfort letters;
- (2) ~~[Issuing certificates under]~~ Administering the tax credit under section 235-110.9[;], including issuing certificates; and
- (3) Issuing certificates under section 235-110.91.”

SECTION 4. Section 235-110.9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. For the purpose of this section, “net income tax liability” means net income tax liability reduced by all other credits allowed under this chapter. By accepting an investment for which the credit allowed under this section may be claimed, a qualified high technology business consents to the public disclosure of the qualified high technology business’ name and status as a beneficiary of the credit under this section.”

SECTION 5. The department of taxation shall prepare and submit a report to the legislature by October 31, 2007, summarizing data submitted by qualified high technology businesses on form N-317 for all previous years available. The report shall include but not be limited to summary descriptive statistics regarding the nature of qualified research activities, job creation, and salaries paid by high technology businesses.

SECTION 6. In printing this Act, the revisor of statutes shall substitute in section 235-20.5, Hawaii Revised Statutes, of section 3, the corresponding act number of this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2007, and shall apply to investments received by a qualified high technology business after June 30, 2007; provided that this Act shall be repealed on January 1, 2011, and sections 235-20.5 and 235-110.9(b), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the effective date of this Act.

(Approved June 21, 2007.)

## ACT 207

H.B. NO. 1518

A Bill for an Act Relating to Design Professionals.

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

SECTION 1. The purpose of this Act is to provide a design claims conciliation panel.

The design professional conciliation panel, established by Act 228, Session Laws of Hawaii 1981, was repealed by the legislature in 2004. The lack of a conciliation panel has left the design professional community with no protection against frivolous lawsuits.

This Act establishes a design claims conciliation panel modeled after the existing medical claims conciliation panel established by Act 219, Session Laws of Hawaii 1976. The purpose of the design claims conciliation panel is to provide the parties with advisory determinations of the relative merits of any claim brought against a design professional licensed under chapter 464, Hawaii Revised Statutes. The design claims conciliation panel will assist the parties in evaluating whether the claims should be pursued through the judicial system. The design claims conciliation panel will also provide opportunities for the parties to exchange information in a relatively expedited and inexpensive manner, which in turn provides for opportunities for the parties to explore the conciliation of meritorious claims prior to the claims being brought before the courts. Lastly, the requirements of exchanging information between the parties, and making conscientious and thorough presentations to the design claims conciliation panel, discourage the pursuit of frivolous or fraudulent claims, prior to further legal proceedings being taken by the parties.

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

### “CHAPTER DESIGN CLAIMS CONCILIATION PANEL

§ -1 **Definitions.** As used in this chapter:

“Department” means the department of commerce and consumer affairs.

“Design professional” means a professional engineer, architect, surveyor, or landscape architect licensed under chapter 464.

“Director” means the director of commerce and consumer affairs.

§ -2 **Administration of chapter.** The director shall be responsible for the implementation and administration of this chapter and shall adopt rules, in conformity with chapter 91, necessary for the purposes of this chapter.

§ -3 **Design claim conciliation panels; composition, selection, compensation.** (a) There are established design claim conciliation panels that shall review and render findings and advisory opinions on the issues of liability and damages in tort claims against design professionals licensed to practice under chapter 464.

(b) If all parties to a tort claim against a design professional licensed to practice under chapter 464 agree, the design claim conciliation panel shall not review and render findings and advisory opinions on the issues of liability and damages in the tort claim against the design professional licensed to practice under chapter 464.

(c) A design claim conciliation panel shall be formed for each claim filed pursuant to section -5 and after each panel renders its decision or the claim is otherwise disposed of, the panel shall be disbanded. Each design claim conciliation panel shall consist of one chairperson selected from among persons who are familiar with and experienced in the claims settlement process, one attorney licensed to practice in the courts of the State and experienced in trial practice, and one design professional licensed to practice under chapter 464. The chairperson shall be appointed by the director from a list of eligible persons approved by the chief justice of the supreme court of Hawaii. The attorney shall be appointed by the chairperson from a list of not less than thirty-five attorneys experienced in trial practice submitted annually by the supreme court. The design professional shall be appointed by the chairperson and shall be currently licensed and in good standing under chapter 464.

(d) The chairperson shall preside at the meetings of the panel. The chairperson, all panel members, and any consultant called by the panel to appear before the panel shall be compensated at the rate of \$300 per claim, which will become payable when the decision of the panel is submitted. At the discretion of the director, the chairperson, panel members, and any consultant called by the panel to appear before the panel, may be compensated at one-half the amount of compensation specified in this section, if the claim is disposed of by any means prior to the hearing by the panel. The chairperson, all panel members, and any consultant called by the panel to appear before the panel also shall be paid allowances for travel and living expenses that may be incurred as a result of the performance of their duties on or for the panel. These costs shall be paid by the department of commerce and consumer affairs from the filing fees paid by the parties.

(e) The claimant shall pay a filing fee of \$450 to the department upon the filing of the claim and the failure to do so shall result in the claim being rejected for filing. Each party to the claim shall pay a filing fee of \$450 to the department within twenty days of being served with the claim. Each party to a claim shall be assessed a non-refundable processing fee by the department in the amount of \$50. The non-refundable processing fee shall be retained from each party's filing fee, and shall be used to defray the administrative costs of the design claims conciliation panel program.

(f) After the panel has made a final decision on a claim, or after a final disposition of the claim has been made without a hearing before the panel, the department shall return any moneys remaining after all panel costs have been paid, to the respective parties on a pro rata basis.

(g) The office and meeting space, secretarial and clerical assistance, office equipment, and office supplies for the panel shall be furnished by the department. The chairperson may designate any alternative meeting place or site for the hearing.

(h) The board of professional engineers, architects, surveyors, and landscape architects shall each prepare a list of design professionals along with their respective

specialties. These design professionals shall be eligible to serve as consultants to the panel in their respective fields. Panel members may consult with other legal, design, and insurance specialists.

**§ -4 Waiver of filing fee.** (a) If any party to a claim cannot pay the required filing fee, the party may file with the director a motion to waive the filing fee. The motion to waive the filing fee shall be accompanied by an affidavit in a format prescribed by the department, showing in detail:

- (1) The party's inability to pay the filing fee;
- (2) The party's belief that the party is entitled to redress; and
- (3) A statement of the issues that the party intends to present at the hearing before a design claims conciliation panel.

(b) The director shall decide on the motion to waive the filing fee as expeditiously as possible, and no oral arguments shall be permitted.

(c) If the director grants the motion to waive the filing fee, the party may proceed without further application to the director or panel, and without payment of the filing fee. If the motion is denied, the director shall state the reasons for the denial in writing. The director shall promptly provide the party with a filed copy of the director's order granting or denying the motion.

(d) If a motion to waive the filing fee is denied by the director, the party may seek judicial review under section 91-14.

(e) If the director denies a party's motion to waive the filing fee, the party shall pay the filing fee within thirty days after the denial of the motion, unless the party has filed an appeal under section 91-14. If the party has filed an appeal under section 91-14, the party may proceed without payment of the filing fee, until such time as a final judicial determination is rendered.

(f) If the party files an appeal under section 91-14, and the court upholds the director's denial of the aggrieved party's motion to waive the filing fee, the party shall pay the filing fee within thirty days after the court's affirmation of the denial. If the court determines that the party's motion for waiver of the filing fee was improperly denied, the party shall be entitled to proceed without payment of the filing fee.

**§ -5 Review by panel required; notice; presentation of claims; request for a more definite statement of the claim.** (a) Effective January 1, 2008, any person or the person's representative claiming that a tort has been committed by a design professional shall submit a statement of the claim to the design claim conciliation panel before a suit based on the claim may be commenced in any court of this State. Claims shall be submitted to the design claim conciliation panel in writing. The claimant shall set forth facts upon which the claim is based and shall include the names of all parties against whom the claim is or may be made who are then known to the claimant.

(b) Within five business days thereafter the panel shall give notice of the claim and the statement of the claim, by certified mail, to all design professionals and others who are or may be parties to the claim and shall furnish copies of written claims to these persons. The notice shall set forth a date, not more than twenty days after mailing the notice, within which any design professional against whom a claim is made shall file a written response to the claim, and a date and time, not less than fourteen days following the last date for filing a response, for a hearing of the panel. The notice shall describe the nature and purpose of the panel's proceedings and shall designate the place of the meeting. The times originally set forth in the notice may be enlarged by the chairperson, on due notice to all parties, for good cause.

(c) If the statement of the claim in the notice is so vague or ambiguous that any party receiving notice of the claim cannot reasonably be required to frame a

written response, the party may submit a written request to the chairperson for a more definite statement before filing the written response. Copies of the request shall be provided to the panel, the claimant, and other affected parties. The request, which shall be ex parte and stay the proceedings of the panel until notice of the chairperson's decision is given to the panel and all parties, shall specify the defects complained of and the details desired. The chairperson may deny, grant, or modify the request at the chairperson's own discretion, without the necessity of a hearing, although the chairperson may reach a decision after consulting with the panel or the claimant. The chairperson shall provide notice of the decision to the panel, the claimant, and other affected parties. If the request is granted and the claimant fails to provide a more definite statement of the claim within five days after notice of the decision, the panel may make an order as it deems just. This subsection shall not be used as a tactic to delay the proceedings.

§ -6 **Certificate of consultation.** (a) Any claim filed with the design claim conciliation panel under this chapter shall be accompanied by a certificate that declares one of the following:

- (1) That the claimant or the claimant's attorney has consulted with a design professional who is licensed to practice in this State or any other state, who is knowledgeable and experienced in Hawaii building codes and construction practices and the professional standard of care in Hawaii, and who is knowledgeable and experienced in the same specialty as the design professional against whom the primary claim is made, and that the claimant or claimant's attorney has concluded on the basis of the consultation that there is a reasonable and meritorious cause for filing the claim. If the claimant or the claimant's attorney is not able to consult with a design professional in the same specialty as the design professional against whom the primary claim is made, the claimant or claimant's attorney may consult with a design professional who is licensed in this State or in any other state, who is knowledgeable and experienced in Hawaii building codes and construction practices and the professional standard of care in Hawaii, and who is knowledgeable and experienced in a specialty that is as closely related as practicable to the specialty of the design professional against whom the primary claim is made. The design professional consulted by the claimant or the claimant's attorney may not be a party to the case, nor be compelled to testify or otherwise participate in the hearing before the design claim conciliation panel;
- (2) That the claimant or the claimant's attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations would impair the action and that the certificate required by paragraph (1) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificate required by paragraph (1) shall be filed by the claimant or the claimant's attorney within ninety days after filing the claim; or
- (3) That the claimant or the claimant's attorney was unable to obtain the consultation required by paragraph (1) after the claimant or the claimant's attorney had made a good faith attempt to obtain the consultation and the design professional contacted would not agree to such a consultation. For purposes of this paragraph, "good faith attempt" refers to the responsibility of a claimant or claimant's attorney to make reasonable efforts to contact a design professional for the purpose of reviewing the circumstances upon which a claim is based. The claimant or claimant's attorney may contact design professionals by letter,

telephone, facsimile, or other electronic means of communication. If the design professional does not respond within a reasonable time, the claimant or claimant's attorney may submit its claim to the design claim conciliation panel along with a certificate declaring the nonresponse to claimant's good faith attempt. A "good faith attempt" shall ultimately be evaluated in light of the goal of having a qualified design professional assist the claimant or claimant's attorney in understanding the basis of the claim, and the determination shall depend upon the circumstances of each individual case.

(b) For the purposes of this section, the claimant or the claimant's attorney shall not be required to disclose the names of any design professional consulted to fulfill the requirements of subsection (a) to any of the other parties to the claim. The design claims conciliation panel may require the claimant or the claimant's attorney to disclose the name of any design professional consulted to fulfill the requirements of subsection (a). No disclosure of the name of any design professional consulted to fulfill the requirements of subsection (a) shall be made to any of the other parties to the claim; provided that the design claim conciliation panel may contact the design professional to determine if the requirements of subsection (a) were met.

(c) Unless a certificate is filed pursuant to subsection (a), the claim shall not be received for filing by the design claim conciliation panel.

**§ -7 Design claim conciliation panel hearing; fact-finding; evidence; voluntary settlement.** (a) Every claim of a tort against a design professional shall be heard by the design claim conciliation panel within thirty days after the last date for filing a response. No persons other than the panel, witnesses, and consultants called by the panel, and the persons listed in section -8 shall be present except with the permission of the chairperson. The panel, in its discretion, may conduct an inquiry of a party, witness, or consultant without the presence of any or all parties.

(b) The hearing shall be informal. Chapters 91 and 92 shall not apply. The panel may require a stenographic record of all or part of its proceedings for the use of the panel, but the record shall not be made available to the parties. The panel may receive any oral or documentary evidence. Questioning of parties, witnesses, and consultants may be conducted by the panel, and the panel, in its discretion, may permit any party, or any counsel for a party to question other parties, witnesses, or consultants. The panel may designate who, among the parties, shall have the burden of going forward with the evidence with respect to the issues as it may consider, and unless otherwise designated by the panel, the burden shall initially rest with the claimant at the commencement of the hearing.

(c) The panel may require by subpoena the appearance and testimony of witnesses and the production of documentary evidence. When subpoena power is utilized, notice shall be given to all parties. The testimony of witnesses may be taken either orally before the panel or by deposition. In cases of refusal to obey a subpoena issued by the panel, the panel may invoke the aid of any circuit court in the State, which may issue an order requiring compliance with the subpoena. Failure to obey the order may be punished by the court as a contempt thereof. Any member of the panel, the director, or any person designated by the director may sign subpoenas. Any member of the panel may administer oaths and affirmations, examine witnesses, and receive evidence. Notwithstanding these powers, the panel shall attempt to secure the voluntary appearance, testimony, and cooperation of parties, witnesses, and consultants without coercion.

(d) At the hearing of the panel and in arriving at its opinion the panel shall consider, but not be limited to, statements or testimony of witnesses, project records, and other records kept in the usual course of the practice of the design professional without the necessity for other identification or authentication, statement of fact, or

opinion on a subject contained in a published treatise, periodical, book, or pamphlet, or statements of experts without the necessity of the experts appearing at the hearing. The panel, upon the application of any party or upon its own decision, may appoint as a consultant, an impartial and qualified design professional, or other professional person or expert to testify before the panel or to conduct any necessary professional or expert examination of the claimant or relevant evidentiary matter and to report to or testify as a witness thereto. Such a consultant shall not be compensated or reimbursed except for travel and living expenses to be paid as provided in section

-3. Except for the production of records kept in the usual course of the practice of the design professional, discovery by the parties shall not be allowed.

During the hearing and at any time prior to the rendition of an advisory decision pursuant to section -9, the panel may encourage the parties to settle or otherwise dispose of the case voluntarily.

**§ -8 Design claim conciliation panel hearing; persons attending.** Unless excluded or excused by the panel, the following persons shall attend hearings before the panel:

- (1) The party or parties making the claim;
- (2) The design professional against whom the claim is made or representatives thereof; other than counsel, authorized to act for the design professional; or
- (3) Counsel for the parties, if any.

**§ -9 Design claim conciliation panel hearing; decisions.** (a) Within thirty days after the completion of a hearing, the design claim conciliation panel shall file a written advisory decision with the department and shall thereupon mail copies to all parties concerned, and their counsel. The panel shall decide the issue of liability and shall state its conclusions in writing.

(b) After a finding of liability, the design claim conciliation panel shall decide the amount of damages, if any, which should be awarded in the case. The decision as to damages shall include in simple, concise terms a division as to which portion of the damages recommended are attributable to the design professional, economic losses and noneconomic losses; provided the panel may not recommend punitive damages.

(c) The decision shall be signed by all members of the design claim conciliation panel; provided that any member of the panel may file a written concurring or dissenting opinion.

(d) The advisory decision required by this section need not be filed if the claim is settled or otherwise disposed of before the decision is written or filed.

**§ -10 Expungement of records; liability insurance rates.** (a) Upon a decision by the design claim conciliation panel finding for the design professional pursuant to section -9(a), the design professional may apply to the panel for expungement of all records of the related proceedings. The panel shall expunge all records if a majority of the panel finds that the complaint is fraudulent or frivolous.

(b) No insurer providing professional liability insurance for a design professional shall increase any premium rate for the design professional on the basis of the filing of a tort claim against the design professional that is determined by the design claims conciliation panel to be fraudulent or frivolous.

**§ -11 Subsequent litigation; excluded evidence.** The claimant may institute litigation based upon the claim in an appropriate court only after a party to a design claim conciliation panel hearing rejects the decision of the panel, or after the twelve-month period under section -15 has expired.

No statement made in the course of the hearing of the design claim conciliation panel shall be admissible in evidence either as an admission, to impeach the credibility of a witness, or for any other purpose in any trial of the action; provided that the statements may be admissible for the purpose of section -16. No decision, conclusion, finding, or recommendation of the design claim conciliation panel on the issue of liability or on the issue of damages shall be admitted into evidence in any subsequent trial, nor shall any party to the design claim conciliation panel hearing, or the counsel or other representative of the party, refer or comment thereon in an opening statement, an argument, or at any other time, to the court or jury; provided that the decision, conclusion, finding, or recommendation may be admissible for the purpose of section -16.

**§ -12 Arbitration; subsequent litigation.** Any person or the person's representative claiming that a tort has been committed by a design professional or any design professional against whom a claim has been made may elect to bypass the court annexed arbitration program under section 601-20 after the claim has been submitted to the design claim conciliation panel and the panel has rendered a decision or has not reached a decision within the tolling period of the statute of limitations under section -15.

**§ -13 Submission of claim to an alternative dispute resolution provider.** (a) Any claim initially filed with the design claim conciliation panel may be subsequently submitted to an alternative dispute resolution provider upon the written agreement of all of the parties to the claim and with the written approval of the director. The director shall approve the alternative dispute resolution provider and the alternative dispute resolution procedures.

(b) The parties shall comply with the procedures established by the alternative dispute resolution provider and approved by the director. If a party does not comply with those procedures, any other party may file a motion with the director to have the claim resubmitted to the design claim conciliation panel.

(c) Within thirty days after the completion of the alternative dispute resolution process, the alternative dispute resolution provider shall notify all parties concerned, their counsel, and the representative of each design professional's liability insurance carrier authorized to act for the carrier, as appropriate, that the alternative dispute resolution process has been completed.

(d) The claimant may institute litigation based upon the claim in an appropriate court only if:

- (1) The parties were not able to resolve the entire claim through the alternative dispute resolution process and the matter has not been resubmitted to the design claim conciliation panel pursuant to subsection (b); or
- (2) The claim has not been resolved through the alternative dispute resolution process after twelve months from the date the claim was filed with the approved alternative dispute resolution provider.

(e) No statement made in the course of the approved alternative dispute resolution process shall be admissible in evidence as an admission, to impeach the credibility of a witness, or for any other purpose in any trial of the action. No decision, conclusion, finding, or recommendation of the approved alternative dispute resolution provider on the issue of liability or on the issue of damages shall be admitted into evidence in any subsequent trial, nor shall any party to the approved alternative dispute resolution hearing, their counsel, or other representative of the party, refer or comment thereon in an opening statement, in an argument, or at any time, to the court or jury.

§ -14 **Immunity of panel members from liability.** No member of a design claim conciliation panel shall be liable in damages for libel, slander, or other defamation of character of any party to a design claim conciliation panel proceeding for any action taken or any decision, conclusion, finding, or recommendation made by the member while acting within the member's capacity as a member of a design claim conciliation panel under this chapter.

§ -15 **Statute of limitations tolled.** The filing of the claim with the design claim conciliation panel or with an approved alternative dispute resolution provider shall toll any applicable statute of limitations, and any such statute of limitations shall remain tolled until sixty days after the date of the decision of the panel or the notification of completion from the approved alternative dispute resolution provider is mailed or delivered to the parties. If a decision by the design claim conciliation panel is not reached within twelve months, or the alternative dispute resolution process is not completed within twelve months, the statute of limitations shall resume running and the party filing the claim may commence a suit based on the claim in any appropriate court of this State. The panel or the approved alternative dispute resolution provider shall notify all parties in writing of this provision.

§ -16 **Duty to cooperate; assessment of costs and fees.** It shall be the duty of every person who files a claim with the design claim conciliation panel, every design professional against whom the claim is made, and every insurance carrier or other person providing professional tort liability insurance for the design professional, to cooperate with the design claim conciliation panel for the purpose of achieving a prompt, fair, and just disposition or settlement of the claim; provided that cooperation shall not prejudice the substantive rights of those persons.

Any party may apply to the panel to have the costs of the action assessed against any party for failure to cooperate with the panel. The panel may award costs, or a portion thereof, including attorney's fees, witness fees, including those of expert witnesses, filing fees, and costs of the design claim conciliation panel hearing to the party applying therefor.

In determining whether any person has failed to cooperate in good faith, the panel shall consider, but is not limited to, the following:

- (1) The attendance of the persons at the hearing of the design claim conciliation panel;
- (2) The extent to which representatives of parties and counsel representing parties came to panel hearings with knowledge of the claims and defenses and authority to negotiate a settlement or other disposition of the claim;
- (3) The testimony of members of the panel as to the facts of the person's participation in the panel hearing;
- (4) The extent of the person's cooperation in providing the panel with documents and testimony called for by the panel;
- (5) The reasons advanced by the person so charged for not fully cooperating or negotiating; and
- (6) The failure of the person to submit any required fees to the department, as required by this chapter.

The party against whom costs are awarded may appeal the award to the circuit court. The court may affirm or remand the case with instructions for further proceedings, or it may reverse or modify the award if the substantial rights of the petitioners may have been prejudiced because the award is characterized as an abuse of discretion.

§ -17 **Annual report.** The director shall prepare and submit to the legislature annually, no later than twenty days prior to the convening of each regular session, a report containing the director's evaluation of the operation and effects of this chapter. The report shall include a summary of the claims brought before the design claim conciliation panel and the disposition of the claims, a description and summary of the work of the panel under this chapter, an appraisal of the effectiveness of this chapter in securing prompt and fair disposition of design tort claims, a review of the number and outcomes of claims brought under section -5 and recommendations for changes, modifications or repeal of this chapter or parts thereof with accompanying reasons and data."

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. This Act shall take effect on January 1, 2008.

(Approved June 21, 2007.)

## ACT 208

S.B. NO. 1017

A Bill for an Act Relating to Housing.

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

SECTION 1. The purpose of this Act is to make technical and housekeeping amendments to ensure that the Hawaii Habitat for Humanity Association's zero interest revolving-loan fund can continue to assist low-income families to become homeowners.

SECTION 2. Act 100, Session Laws of Hawaii 2006, is amended by amending section 22 to read as follows:

"SECTION 22. There is appropriated out of the general revenues of the State of Hawaii the sum of \$700,000 or so much thereof as may be necessary for fiscal year 2006-2007 as a grant-in-aid to the Hawaii Habitat for Humanity Association to establish a zero interest revolving loan fund to be used to provide loans to low-income families to build self-help ownership homes [~~on leased from the State and~~] administered in accordance with subpart B of part III of chapter [~~201G,~~] 201H, Hawaii Revised Statutes.

The sum appropriated shall be expended by the Hawaii housing and finance development<sup>1</sup> [~~administration~~] corporation for the purposes of this part."

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

SECTION 4. This Act shall take effect upon its approval and shall apply retroactively to July 1, 2006.

(Approved June 21, 2007.)

### Note

1. Prior to amendment "Hawaii housing finance and development" appeared here.

A Bill for an Act Relating to Transportation.

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

PART I

SECTION 1. Section 291-37, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person ~~[guilty of omitting]~~ who omits to perform any of the ~~[required]~~ acts~~;~~ required by, or ~~[committing]~~ who commits any of the ~~[prohibited]~~ acts ~~[of]~~ prohibited by, sections 291-2 to 291-33, or ~~[the]~~ any rules adopted to enforce those sections, shall be guilty of a violation ~~[of this chapter]~~ and shall be fined not less than \$25 nor more than \$1,800~~[-]~~, except as otherwise provided.

Any person ~~[guilty of omitting]~~ who omits to perform any of the ~~[required]~~ acts~~;~~ required by, or ~~[committing]~~ who commits any of the ~~[prohibited]~~ acts ~~[of]~~ prohibited by, section 291-34, 291-35, or 291-36 shall be fined in accordance with the following tables:

If the excess weight is:	The fine for a <del>[first]</del>
	violation shall be:
100 to 1,500 pounds	<del>[\$125]</del> <u>\$250</u>
1,501 to 2,000 pounds	<del>[130]</del> <u>260</u>
2,001 to 2,500 pounds	<del>[140]</del> <u>280</u>
2,501 to 3,000 pounds	<del>[160]</del> <u>320</u>
3,001 to 3,500 pounds	<del>[180]</del> <u>360</u>
3,501 to 4,000 pounds	<del>[200]</del> <u>400</u>
4,001 to 4,500 pounds	<del>[225]</del> <u>450</u>
4,501 to 5,000 pounds	<del>[250]</del> <u>500</u>
5,001 to 5,500 pounds	<del>[275]</del> <u>550</u>
5,501 to 6,000 pounds	<del>[300]</del> <u>600</u>
6,001 to 6,500 pounds	<del>[330]</del> <u>660</u>
6,501 to 7,000 pounds	<del>[360]</del> <u>720</u>
7,001 to 7,500 pounds	<del>[390]</del> <u>780</u>
7,501 to 8,000 pounds	<del>[420]</del> <u>840</u>
8,001 to 8,500 pounds	<del>[455]</del> <u>910</u>
8,501 to 9,000 pounds	<del>[490]</del> <u>980</u>
9,001 to 9,500 pounds	<del>[525]</del> <u>1050</u>
9,501 to 10,000 pounds	<del>[560]</del> <u>1120</u>
10,001 pounds and over	<del>[580]</del> <u>1160</u>

If the excess dimension is:	The fine shall be:
Up to 5 feet	<del>[\$ 25]</del> <u>\$ 50</u>
Over 5 feet and up to 10 feet	<del>[50]</del> <u>100</u>
Over 10 feet and up to 15 feet	<del>[75]</del> <u>150</u>
Over 15 feet	<del>[100]</del> <u>200</u>

~~[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 cargo is consigned to; or
- (2) The individual or company located in the State shipping the 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]~~ shall institute a system where the 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."

## PART II

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

**"§237- Exemption of sale of alcohol fuels.** (a) There shall be exempted from and excluded from the measure of the taxes imposed by this chapter all of the gross income or gross proceeds arising from the sale of alcohol fuels, as defined in subsection (b), for consumption or use by the purchaser and not for resale.

(b) For the purposes of this section, "alcohol fuels" means neat biomass-derived alcohol liquid fuel or a petroleum-derived fuel and alcohol liquid fuel mixture consisting of at least ten volume per cent denatured biomass-derived alcohol commercially usable as a fuel to power aircraft, seacraft, spacecraft, motor vehicles, or other motorized vehicles.

(c) A producer, wholesaler, or retailer of alcohol fuels shall pass any savings realized from this exemption on to the end consumer. Any producer or wholesaler who violates this subsection shall be subject to a fine of \$100,000. Notwithstanding any law to the contrary, a violation of this subsection shall be deemed an unfair or deceptive act or practice in violation of and enforceable under chapter 480.

(d) The director of taxation shall adopt rules pursuant to chapter 91 necessary to administer this section."

SECTION 3. Section 243-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"(a)** Every distributor ~~[shall]~~, in addition to any other taxes provided by law, shall pay a license tax to the department of taxation for each gallon of liquid fuel refined, manufactured, produced, or compounded by the distributor and sold or used by the distributor in the State or imported by the distributor, or acquired by the distributor from persons who are not licensed distributors, and sold or used by the distributor in the State. Any person who sells or uses any liquid fuel knowing that the distributor from whom it was originally purchased has not paid and is not paying the tax thereon shall pay such tax as would have applied to such sale or use by the distributor. The rates of tax hereby imposed are as follows:

- (1) For each gallon of diesel oil, [~~1-cent;~~] 2 cents;
- (2) For each gallon of gasoline or other aviation fuel sold for use in or used for airplanes, [~~1-cent;~~] 2 cents;
- (3) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the city and county of Honolulu, or sold in any county for ultimate use in the city and county of Honolulu, [~~16~~] 17 cents state tax, and in addition thereto such amount, to be known as the "city and county of Honolulu fuel tax", as shall be levied pursuant to section 243-5;
- (4) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the county of Hawaii, or sold in any county for ultimate use in the county of Hawaii, [~~16~~] 17 cents state tax, and in addition thereto such amount, to be known as the "county of Hawaii fuel tax", as shall be levied pursuant to section 243-5;
- (5) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the county of Maui, or sold in any county for ultimate use in the county of Maui, [~~16~~] 17 cents state tax, and in addition thereto such amount, to be known as the "county of Maui fuel tax", as shall be levied pursuant to section 243-5; and
- (6) For each gallon of liquid fuel other than fuel mentioned in paragraphs (1) and (2), and other than an alternative fuel, sold or used in the county of Kauai, or sold in any county for ultimate use in the county of Kauai, [~~16~~] 17 cents state tax, and in addition thereto such amount, to be known as the "county of Kauai fuel tax", as shall be levied pursuant to section 243-5.

If it is shown to the satisfaction of the department, based upon proper records and from such other evidence as the department may require, that liquid fuel other than fuel mentioned in paragraphs (1) and (2) is used for agricultural equipment that does not operate upon the public highways of the State, the user thereof may obtain a refund of all taxes thereon imposed by this section in excess of 1 cent per gallon. The department shall adopt rules to administer such refunds."

### PART III

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 and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 2007; provided that section 2 of this Act shall be repealed on June 30, 2009.

(Approved June 26, 2007.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

ACT 210

A Bill for an Act Relating to Income Tax Credit.

*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 second year in a row and that the legislature is constitutionally required to provide a tax credit or tax refund to taxpayers.

The purpose of this Act is to provide for a one-time income tax credit to satisfy constitutionally mandated requirements.

SECTION 2. (a) There shall be allowed for each resident individual taxpayer for the taxable year 2007, a refundable one-time general income tax credit that shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes; provided that no refunds or payments on account of the tax credits allowed by this section shall be made for amounts less than \$1.

(b) There shall be allowed to a husband and wife who file a joint return a one-time general income tax credit in accordance with the following table:

If the adjusted gross income is:	The credit shall be:
Under \$5,000	\$160
\$5,000 and over but under \$10,000	150
\$10,000 and over but under \$15,000	140
\$15,000 and over but under \$20,000	130
\$20,000 and over but under \$30,000	120
\$30,000 and over but under \$40,000	110
\$40,000 and over but under \$50,000	100
\$50,000 and over but under \$60,000	90
\$60,000 and over	0.

(c) There shall be allowed to every taxpayer filing a head of household tax return a one-time general income tax credit in accordance with the following table:

If the adjusted gross income is:	The credit shall be:
Under \$5,000	\$140
\$5,000 and over but under \$10,000	130
\$10,000 and over but under \$15,000	120
\$15,000 and over but under \$20,000	110
\$20,000 and over but under \$30,000	100
\$30,000 and over but under \$40,000	90
\$40,000 and over but under \$50,000	80
\$50,000 and over but under \$60,000	70
\$60,000 and over	0.

(d) There shall be allowed to every (1) unmarried individual (other than a surviving spouse, or the head of household) and (2) married individual filing a separate tax return a one-time general income tax credit in accordance with the following table:

If the adjusted gross income is:	The credit shall be:
Under \$5,000	\$65
\$5,000 and over but under \$10,000	55
\$10,000 and over but under \$15,000	45

## ACT 210

If the adjusted gross income is:	The credit shall be:
\$15,000 and over but under \$20,000	\$35
\$20,000 and over but under \$30,000	25
\$30,000 and over	0.

SECTION 3. (a) Each taxpayer that claims the one-time general income tax credit 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 resident was physically in the state for nine months.

(b) The one-time general income tax credit shall not be available to:

- (1) Any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year;
- (2) Any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or
- (3) Any misdemeanor who has been committed to jail and has been physically confined for the full taxable year.

(c) The tax credit claimed by a resident taxpayer pursuant to this Act shall be deductible from the taxpayer's individual income tax liability for the taxable year 2007. If the tax credit claimed by a resident taxpayer exceeds the amount of income tax payment due from the resident taxpayer, the excess of credits over payments due shall be refunded to the resident taxpayer; provided that a tax credit properly claimed by a resident individual who has no income tax liability shall be paid to the resident individual.

(d) All claims for tax credits under this Act, including any amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with this filing requirement shall constitute a waiver of the right to claim the credit.

(e) A husband and wife who do not file a joint tax return, shall only be entitled to claim the one-time general income tax credit to the extent that they would have been entitled to the one-time general income tax credit had they filed a joint tax return.

(f) The tax refund paid to a resident taxpayer pursuant to this Act shall not be included in the resident taxpayer's gross income.

(g) For the purpose this Act, "adjusted gross income" means adjusted gross income as defined by the Internal Revenue Code.

SECTION 4. This Act 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 5. This Act shall take effect upon its approval and shall apply to the taxable year beginning after December 31, 2006.

(Approved June 26, 2007.)

ACT 211

A Bill for an Act Relating to Taxation.

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

SECTION 1. Section 235-55.85, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§235-55.85]]~~ ~~[Low-income refundable]~~ **Refundable food/excise tax credit.** (a) Each resident individual taxpayer, who files an individual income tax return for a taxable year, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, may claim a refundable ~~[low-income]~~ food/excise tax credit against the resident taxpayer’s individual income tax liability for the taxable year for which the individual income tax return is being filed; provided that a resident individual who has no income or no income taxable under this chapter and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for federal or Hawaii state individual income tax purposes may claim this credit.

(b) Each resident individual taxpayer may claim a refundable ~~[low-income]~~ food/excise tax credit multiplied by the number of qualified exemptions to which the taxpayer is entitled in accordance with the table below; provided that a husband and wife filing separate tax returns for a taxable year for which a joint return could have been filed by them shall claim only the tax credit to which they would have been entitled had a joint return been filed.

Adjusted gross income	Credit per exemption
<u>Under \$5,000</u>	\$85
<del>[Under]</del> <u>\$5,000 under \$10,000</u>	<del>[35]</del> <u>75</u>
<u>\$10,000 under \$15,000</u>	<del>[25]</del> <u>65</u>
<u>\$15,000 under \$20,000</u>	<del>[10]</del> <u>55</u>
<u>\$20,000 under \$30,000</u>	45
<u>\$30,000 under \$40,000</u>	35
<u>\$40,000 under \$50,000</u>	<u>25</u>
<del>[Over \$20,000]</del> <u>\$50,000 and over</u>	0

(c) For the purposes of this section, a qualified exemption is defined to include those exemptions permitted under this chapter; provided that no additional exemption may be claimed by a taxpayer who is sixty-five years of age or older; provided that a person for whom exemption is claimed has physically resided in the State for more than nine months during the taxable year; and provided further that multiple exemptions shall not be granted because of deficiencies in vision or hearing, or other disability. For purposes of claiming this credit only, a minor child receiving support from the department of human services of the State, social security survivor’s benefits, and the like, may be considered a dependent and a qualified exemption of the parent or guardian.

(d) The tax credit under this section shall not be available to:

- (1) Any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year;
- (2) Any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or

(3) Any misdemeanor who has been committed to jail and has been physically confined for the full taxable year.

(e) The tax credits claimed by a resident taxpayer pursuant to this section shall be deductible from the resident taxpayer's individual income tax liability, if any, for the tax year in which they are properly claimed. If the tax credits claimed by a resident taxpayer exceed the amount of income tax payment due from the resident taxpayer, the excess of credits over payments due shall be refunded to the resident taxpayer; provided that tax credits properly claimed by a resident individual who has no income tax liability shall be paid to the resident individual; and provided further that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1.

(f) All claims for tax credits under this section, including any amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(g) For the purposes of this section, "adjusted gross income" means adjusted gross income as defined by the Internal Revenue Code."

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

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2007.

(Approved June 26, 2007.)

## ACT 212

S.B. NO. 1853

A Bill for an Act Relating to Native Hawaiians.

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

SECTION 1. The legislature finds that, over the past two hundred years, Hawai'i has seen and experienced severe changes. These changes include the deterioration of the Hawaiian culture, language, values, and land tenure system, which have in part resulted in the over-development of the coastline, alteration of fresh water streams, destruction of the life-giving watersheds, decimation of the coral reefs, and the decline of endemic marine and terrestrial species.

Native Hawaiian culture has knowledge that has been passed on for generations, and still living for the purposes of perpetuating traditional protocols, caring for and protecting the environment, and strengthening cultural and spiritual connections. It is through the 'aha moku council that native Hawaiians protected their environment and sustained the abundance of resources that they depended upon for thousands of years.

Today, many Hawaiian communities are becoming revitalized by using the knowledge of cultural practitioners that was passed down through kupuna, and experienced farmers (mahi'ai) and fishers (lawai'a) to engage and enhance sustainability, subsistence, and self-sufficiency. Furthermore, many Hawaiian communities are interested, concerned, involved, willing, and able to advise government agencies, organizations, and other interested groups in integrating traditional knowledge and ahupua'a management practices.

The legislature further finds that on August 15-17, 2006, the Ho'ohanohano I Na Kupuna Puwalu series began and native Hawaiian cultural and traditional

practitioners who are versed in lawai‘a and mahi‘ai, ocean, and land ahupua‘a methods gathered to discuss and bring forth the wisdom of the kupuna and ancestors. It was a gathering of empirical knowledge handed down from generation to generation on traditional fishing, agriculture, streams, fishponds, and land use methodology based on the ahupua‘a system. Representatives from thirty-seven moku in the State and over one hundred ahupua‘a practitioners, including kupuna and the acknowledged traditional experts of each moku, all joined together to come forth with their mana‘o and concerns.

The conclusion of Puwala Ekahi was the creation of a resolution calling on native Hawaiians to begin a process to uphold and continue Hawaiian traditional land and ocean practices. Perpetuating and preserving the knowledge of the practitioners through the continuation of the konohiki management, the kapu system, and the creation of an ‘aha moku and the ahupua‘a management system was the consensus.

On November 8 and 9, 2006, Puwala ‘Elua brought together educators, administrators, cultural practitioners, and kupuna to discuss practices such as: values and the spiritual connection between natural resources and native Hawaiians; the ahupua‘a concept; generational knowledge and learning; the importance of place names and mo‘olelo; seasonal closures and lunar calendars; fishing practices; Northwest Hawaiian islands; konohiki connections; marine protected areas; ‘upena (nets); placed based kapu; limu; and pu‘uhonua concepts that could be developed as an educational framework to integrate this knowledge into a curricula for all public, private, charter, and Hawaiian immersion schools in Hawai‘i.

On December 19 and 20, 2006, Puwala ‘Elua brought together major policymakers and stakeholders in the protection of the Hawai‘i ecosystem. Native Hawaiian practitioners and experts in traditional methods of sustainability, government policymakers including members of the legislature, state agency directors, environmental groups, educational leaders, and Hawaiian community organizations discussed existing programs and their successes and failures in community building. In conclusion, it was agreed that the statutes and ordinances, and a framework for community consultation using the Hawaiian perspective and traditional methods such as the ahupua‘a management system was needed, and the creation of the ‘aha moku councils should be established.

The purpose of this Act is to initiate the process to create a system of best practices that is based upon the indigenous resource management practices of moku (regional) boundaries, which acknowledges the natural contours of land, the specific resources located within those areas, and the methodology necessary to sustain resources and the community. The ‘aha moku council system will foster understanding and practical use of knowledge, including native Hawaiian methodology and expertise, to assure responsible stewardship and awareness of the interconnectedness of the clouds, forests, valleys, land, streams, fishponds, and sea. The council system will include the use of community expertise and establish programs and projects to improve communication, education, provide training on stewardship issues throughout the region (moku), and increase education.

**SECTION 2.** (a) There is established the ‘aha kirole advisory committee to advise the legislature in carrying out the purposes of this Act. The advisory committee shall consist of eight members appointed by the governor without regard to sections 26-34 and 78-4, Hawaii Revised Statutes, from a list of nominations submitted by the Association of Hawaiian Civic Clubs. The advisory committee members shall select the chairperson of the committee and shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(b) The advisory committee shall:

- (1) Explore, examine, and derive best practice models for the creation of an 'aha moku council system that will:
  - (A) Provide advisory input based upon the indigenous resource management practices of each moku to state and county agencies;
  - (B) Aid in the development of a comprehensive set of best practices for natural resources management;
  - (C) Foster the understanding and practical use of knowledge, including native Hawaiian methodology and expertise;
  - (D) Ensure the future sustainable use of the State's marine, land, cultural, agricultural, and natural resources;
  - (E) Enhance community education and cultural awareness; and
  - (F) Participate in the protection and preservation of the State's natural resources;
- (2) Engage in discussion with and participate in meetings and events held by the various moku statewide to gain perspective and develop a consensus on establishing an 'aha moku council system with an 'aha moku council commission;
- (3) Establish an administrative structure for the creation of an 'aha moku council commission to oversee an 'aha moku council system, which shall consist of eight 'aha kiole members, representing each island;
- (4) Establish a standard eligibility criteria and selection process for each 'aha kiole member and the selection of a executive director;
- (5) Establish goals and objectives for an 'aha moku council commission to accomplish, including benchmarks for long-term planning and sustainable objectives; and
- (6) Establish a feasible operational budget for an 'aha moku council commission to conduct meetings, cover administrative expenses, and disseminate information and advice for the creation of an 'aha moku council system.

(c) The advisory committee shall submit a written interim report of its findings and recommendations, including any proposed legislation, no later than twenty days prior to the convening of the 2008 regular session. The advisory committee shall submit a written final report of its findings and recommendations, including any proposed legislation, no later than twenty days prior to the convening of the 2009 regular session.

(d) The department of land and natural resources shall provide support services to the advisory committee as the advisory committee deems necessary.

(e) The 'aha kiole advisory committee shall cease to exist on June 30, 2009.

SECTION 3. 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 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for administrative costs related to carrying out the duties of the 'aha kiole advisory committee, and for allowing each of the thirty-seven moku statewide to actively participate and engage in discussion on the creation of an 'aha moku council system.

The sums 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 upon its approval; provided that section 3 of this Act shall take effect on July 1, 2007.

(Approved June 27, 2007.)

A Bill for an Act Relating to the State Budget.

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

### PART I. GENERAL PROVISIONS

SECTION 1. SHORT TITLE. This Act shall be known and may be cited as the General Appropriations Act of 2007.

SECTION 2. DEFINITIONS. Unless otherwise clear from the context, as used in this Act:

- (a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the organization responsible for carrying out the program, followed by the organization number for the program.
- (b) "Expending agency" means the executive department, independent commission, bureau, office, board, or other establishment of the state government (other than the legislature, office of Hawaiian affairs, and judiciary), the political subdivisions of the State, or any quasi-public institution supported in whole or in part by state funds, which is authorized to expend specified appropriations made by this Act. Abbreviations where used to denote the expending agency shall mean the following:

AGR Department of Agriculture  
 AGS Department of Accounting and General Services  
 ATG Department of the Attorney General  
 BED Department of Business, Economic Development and Tourism  
 BUF Department of Budget and Finance  
 CCA Department of Commerce and Consumer Affairs  
 DEF Department of Defense  
 EDN Department of Education  
 GOV Office of the Governor  
 HHL Department of Hawaiian Home Lands  
 HMS Department of Human Services  
 HRD Department of Human Resources Development  
 HTH Department of Health  
 LBR Department of Labor and Industrial Relations  
 LNR Department of Land and Natural Resources  
 LTG Office of the Lieutenant Governor  
 PSD Department of Public Safety  
 SUB Subsidies  
 TAX Department of Taxation  
 TRN Department of Transportation  
 UOH University of Hawaii  
 CCH City and County of Honolulu  
 COH County of Hawaii  
 COK County of Kauai  
 COM County of Maui

- (c) "Means of financing" (or "MOF") means the source from which funds are appropriated or authorized to be expended for the programs and projects specified in this Act. All appropriations are followed by

letter symbols. Such letter symbols, where used, shall have the following meanings:

- A general funds
- B special funds
- C general obligation bond fund
- D general obligation bond fund with debt service cost to be paid from special funds
- E revenue bond funds
- J federal aid interstate funds
- K federal aid primary funds
- L federal aid secondary funds
- M federal aid urban funds
- N other federal funds
- R private contributions
- S county funds
- T trust funds
- U interdepartmental transfers
- W revolving funds
- X other funds

- (d) "Position ceiling" means the maximum number of permanent positions that an expending agency is authorized for a particular program during a specified period or periods, as denoted by an asterisk.
- (e) "Capital project number" means the official number of the capital project, as assigned by the responsible organization.

**PART II. PROGRAM APPROPRIATIONS**

SECTION 3. APPROPRIATIONS. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the means of financing specified to the expending agencies designated for the fiscal biennium beginning July 1, 2007 and ending June 30, 2009. 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 fiscal year, except as provided elsewhere in this Act, or as provided by general law.

**PROGRAM APPROPRIATIONS**

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>A. ECONOMIC DEVELOPMENT</b>							
1. BED100 - STRATEGIC MARKETING & SUPPORT							
	OPERATING		BED	20.00*		20.00*	
			BED	2,178,042A		1,828,212A	
			BED	250,000N		250,000N	
			BED	1,821,915W		1,821,915W	
2. BED105 - CREATIVE INDUSTRIES DIVISION							
	OPERATING		BED	11.00*		11.00*	
			BED	1,358,067A		1,233,170A	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
3.	BED107	FOREIGN TRADE ZONE					
	OPERATING		BED	19.00*		19.00*	
				2,010,341B		2,010,341B	
4.	BED142	GENERAL SUPPORT FOR ECONOMIC DEVELOPMENT					
	OPERATING		BED	35.00*		35.00*	
	INVESTMENT CAPITAL		BED	2,605,748A		2,206,045A	
				1,300,000C			C
5.	BED113	TOURISM					
	OPERATING		BED	25,000A			A
				2.00*		2.00*	
			BED	138,663,979B		137,063,979B	
6.	AGR101	FINANCIAL ASSISTANCE FOR AGRICULTURE					
	OPERATING		AGR	10.00*		10.00*	
			AGR	1,105,036B		1,105,036B	
				5,000,000W		5,000,000W	
7.	LNR172	FORESTRY RESOURCE MANAGEMENT AND DEVELOPMENT					
	OPERATING		LNR	19.00*		19.00*	
				813,603A		813,730A	
			LNR	1.50*		1.50*	
				5,784,970B		4,069,970B	
			LNR	1.50*		1.50*	
				390,276N		390,276N	
8.	AGR122	PLANT, PEST, AND DISEASE CONTROL					
	OPERATING		AGR	138.00*		138.00*	
			AGR	7,822,273A		7,212,611A	
			AGR	810,183N		810,183N	
			AGR	512,962T		512,962T	
			AGR	9.00*		9.00*	
			AGR	1,924,816U		1,424,816U	
			AGR	58,360W		58,360W	
9.	AGR131	RABIES QUARANTINE					
	OPERATING		AGR	100,000A		100,000A	
			AGR	32.00*		32.00*	
			AGR	2,952,834B		2,952,834B	
10.	AGR132	ANIMAL DISEASE CONTROL					
	OPERATING		AGR	24.00*		24.00*	
			AGR	1,341,937A		1,341,937A	
			AGR	456,730N		442,230N	
			AGR	420,858U		420,858U	
11.	AGR151	QUALITY AND PRICE ASSURANCE					
	OPERATING		AGR	24.00*		24.00*	
			AGR	1,331,736A		1,331,736A	
			AGR	2.00*		2.00*	
			AGR	290,119B		290,119B	
			AGR	52,424N		52,424N	
			AGR	300,000T		300,000T	
			AGR	501,638W		501,638W	
12.	AGR171	AGRICULTURAL DEVELOPMENT AND MARKETING					
	OPERATING		AGR	18.00*		18.00*	
			AGR	2,379,553A		1,879,553A	
				75,000N		75,000N	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
13.	AGR141	- AGRICULTURAL RESOURCE MANAGEMENT					
	OPERATING		AGR	2.00*		2.00*	
				573,157A		573,157A	
			AGR	6.00*		6.00*	
				3,717,780B		713,780B	
				13.00*		13.00*	
	INVESTMENT CAPITAL		AGR	1,417,472W		1,417,472W	
			AGR	18,400,000C		1,500,000C	
			AGR	1,500,000N		1,500,000N	
14.	AGR161	- AGRIBUSINESS DEVELOPMENT AND RESEARCH					
	OPERATING		AGR	140,558A		140,558A	
			AGR	3,360,761W		3,360,761W	
15.	AGR192	- GENERAL ADMINISTRATION FOR AGRICULTURE					
	OPERATING		AGR	29.00*		29.00*	
			AGR	2,392,440A		2,454,831A	
	INVESTMENT CAPITAL		AGR	125,000C			C
			AGS	500,000C			C
16.	LNR153	- COMMERCIAL FISHERIES AND RESOURCE ENHANCEMENT					
	OPERATING		LNR	11.00*		11.00*	
			LNR	880,926A		884,127A	
			LNR	300,315B		300,315B	
			LNR	667,844N		667,844N	
	INVESTMENT CAPITAL		LNR	30,000C		230,000C	
17.	AGR153	- AQUACULTURE DEVELOPMENT PROGRAM					
	OPERATING		AGR	8.00*		8.00*	
			AGR	610,192A		610,192A	
			AGR	30,000B		30,000B	
			AGR	87,115N		87,115N	
18.	BED120	- STRATEGIC INDUSTRIES					
	OPERATING		BED	9.00*		9.00*	
			BED	1,143,447A		1,143,579A	
			BED	4,263,395N		4,263,397N	
19.	BED143	- HIGH TECHNOLOGY DEVELOPMENT CORPORATION					
	OPERATING		BED	1.50*		1.50*	
			BED	968,401A		968,465A	
			BED	1.50*		1.50*	
			BED	3,827,732B		3,827,732B	
			BED	3,548,750N		3,548,750N	
			BED	1,500,000W		1,500,000W	
20.	BED145	- HAWAII STRATEGIC DEVELOPMENT CORPORATION					
	OPERATING		BED	4,742,500B		2,609,375B	
			BED	4,272,728W		4,272,728W	
21.	BED146	- NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY					
	OPERATING		BED	365,000A		365,000A	
			BED	5,387,491B		5,394,341B	
			BED	6,883,293N		6,883,294N	
	INVESTMENT CAPITAL		BED	5,250,000C			C
22.	LNR141	- WATER AND LAND DEVELOPMENT					
	OPERATING		LNR	3.00*		3.00*	
			LNR	373,755A		299,789A	
			LNR	2.00*		3.00*	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
			LNR	402,560B		434,000B	
		INVESTMENT CAPITAL	LNR	119,104W		119,104W	
			LNR	1,500,000S			S
			LNR	2,905,000U		11,500,000U	
23.		BED150 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY					
	OPERATING			2.00*		2.00*	
			BED	310,664A		310,710A	
			BED	650,000W		650,000W	
	INVESTMENT CAPITAL		BED	2,500,000C		1,820,000C	
24.		BED151 - ALOHA TOWER DEVELOPMENT CORPORATION					
	OPERATING		BED	1,530,554B		1,530,554B	
25.		BED160 - HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION					
	OPERATING			3.00*		3.00*	
			BED	15,800,983A		261,401A	
			BED	3,000,000N		3,000,000N	
			BED	36,923,698T		21,923,698T	
				31.00*		31.00*	
	INVESTMENT CAPITAL		BED	5,905,203W		5,906,338W	
			BED	125,000C			C
			BED	2,500,000W			W
<b>B. EMPLOYMENT</b>							
1.		LBR111 - WORKFORCE DEVELOPMENT PROGRAM					
	OPERATING			4.30*		4.30*	
			LBR	309,181A		309,181A	
			LBR	6,806,016B		6,806,016B	
				119.20*		119.20*	
			LBR	49,651,572N		49,651,572N	
			LBR	3,610,213U		3,610,213U	
2.		LBR135 - WORKFORCE DEVELOPMENT COUNCIL					
	OPERATING			3.00*		3.00*	
			LBR	188,357A		188,357A	
			LBR	447,409N		447,409N	
3.		LBR171 - UNEMPLOYMENT INSURANCE PROGRAM					
	OPERATING		LBR	166,626,650B		166,626,650B	
				207.50*		207.50*	
			LBR	14,799,675N		14,799,675N	
4.		LBR903 - OFFICE OF COMMUNITY SERVICES					
	OPERATING		LBR	4.00*		4.00*	
			LBR	5,336,564A		3,596,913A	
				2.00*		2.00*	
	INVESTMENT CAPITAL		LBR	5,856,479N		5,856,479N	
			LBR	4,786,000C			C
5.		LBR905 - HI CAREER (KOKUA) INFORMATION DELIVERY SYS					
	OPERATING		LBR	430,998A		430,998A	
			LBR	160,050N		160,050N	
6.		HMS802 - VOCATIONAL REHABILITATION					
	OPERATING			27.13*		27.13*	
			HMS	4,084,904A		4,085,181A	
				95.37*		95.37*	
			HMS	12,949,367N		12,949,373N	

ACT 213

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
			HMS HMS	1,330,200W 250,000C		1,330,200W C	
7.	LBR143	HAWAII OCCUPATIONAL SAFETY AND HEALTH PROGRAM					
	OPERATING		LBR	41.50* 2,092,635A 25.50* 2,244,249N 50,000W		41.50* 2,112,363A 25.50* 2,244,249N 50,000W	
8.	LBR152	WAGE STANDARDS PROGRAM					
	OPERATING		LBR LBR	24.50* 1,256,489A 53,131U		24.50* 1,256,489A 53,131U	
9.	LBR153	HAWAII CIVIL RIGHTS COMMISSION					
	OPERATING		LBR LBR	24.50* 1,355,403A 5.50* 589,964N		24.50* 1,355,403A 5.50* 589,964N	
10.	LBR183	DISABILITY COMPENSATION PROGRAM					
	OPERATING		LBR LBR	109.00* 5,479,284A 8.00* 23,675,713B		109.00* 5,401,284A 8.00* 23,675,713B	
11.	LBR316	OFFICE OF LANGUAGE ACCESS					
	OPERATING		LBR	6.00* 367,059A		6.00* 440,000A	
12.	LBR161	HAWAII LABOR RELATIONS BOARD					
	OPERATING		LBR	1.00* 466,419A		1.00* 466,419A	
13.	LBR812	LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD					
	OPERATING		LBR	12.00* 762,566A		12.00* 762,566A	
14.	LBR871	EMPLOYMENT SECURITY APPEALS REFEREES' OFFICE					
	OPERATING		LBR	10.80* 904,402N		10.80* 904,402N	
15.	LBR901	DATA GATHERING, RESEARCH, AND ANALYSIS					
	OPERATING		LBR LBR	8.88* 468,466A 28.12* 2,438,236N		8.88* 468,466A 28.12* 2,438,236N	
16.	LBR902	GENERAL ADMINISTRATION					
	OPERATING		LBR LBR	27.46* 1,368,088A 35.48* 3,115,751N		27.46* 1,370,706A 35.48* 3,115,778N	
<b>C. TRANSPORTATION FACILITIES</b>							
1.	TRN102	HONOLULU INTERNATIONAL AIRPORT					
	OPERATING		TRN TRN	592.50* 105,044,653B 5,625,000N		593.50* 102,755,058B 3,337,500N	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		INVESTMENT CAPITAL	TRN	18,760,000B			B
			TRN	142,633,000E		15,404,000E	
			TRN	9,000,000N			N
2.	TRN104	GENERAL AVIATION					
		OPERATING	TRN	30.00*		30.00*	
		INVESTMENT CAPITAL	TRN	6,760,575B		6,691,575B	B
			TRN	650,000B			B
			TRN	5,805,000N			N
3.	TRN111	HILO INTERNATIONAL AIRPORT					
		OPERATING	TRN	82.00*		82.00*	
			TRN	12,802,246B		12,585,482B	B
			TRN	2,945,000N		1,567,500N	N
		INVESTMENT CAPITAL	TRN	20,850,000B		3,640,000B	B
4.	TRN114	KONA INTERNATIONAL AIRPORT AT KEAHOLE					
		OPERATING	TRN	83.00*		83.00*	
			TRN	12,919,387B		12,869,720B	B
			TRN	4,441,250N		1,520,000N	N
		INVESTMENT CAPITAL	TRN	8,611,000B			B
			TRN	6,460,000E			E
5.	TRN116	WAIMEA-KOHALA AIRPORT					
		OPERATING	TRN	9.00*		9.00*	
			TRN	817,572B		844,605B	B
				1,000N		428,500N	N
6.	TRN118	UPOLU AIRPORT					
		OPERATING	TRN	149,500B		149,500B	
7.	TRN131	KAHULUI AIRPORT					
		OPERATING	TRN	151.00*		151.00*	
			TRN	21,408,721B		20,777,676B	B
			TRN	1,125,000N		450,000N	N
		INVESTMENT CAPITAL	TRN	26,820,000B		6,460,000B	B
			TRN	9,020,000E		3,880,000E	E
			TRN	949,000N			N
8.	TRN133	HANA AIRPORT					
		OPERATING	TRN	9.00*		9.00*	
				871,165B		792,698B	B
9.	TRN135	KAPALUA AIRPORT					
		OPERATING	TRN	11.00*		11.00*	
				1,774,230B		1,922,297B	B
10.	TRN141	MOLOKAI AIRPORT					
		OPERATING	TRN	13.50*		13.50*	
			TRN	2,455,601B		2,124,152B	B
			TRN	475,000N		475,000N	N
		INVESTMENT CAPITAL	TRN	700,000B			B
			TRN	6,210,000N			N
11.	TRN143	KALAUPAPA AIRPORT					
		OPERATING	TRN	9.00*		9.00*	
				1,230,818B		656,477B	B

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
12.	TRN151	LANAI AIRPORT					
	OPERATING		TRN	10.00*		10.00*	
			TRN	1,647,124B		1,878,619B	
	INVESTMENT CAPITAL		TRN	855,000N			N
			TRN	10,000B			B
			TRN	3,344,000N			N
			TRN	176,000R			R
13.	TRN161	LIHUE AIRPORT					
	OPERATING		TRN	101.00*		101.00*	
			TRN	18,932,554B		18,720,195B	
	INVESTMENT CAPITAL		TRN	1,500,000N		1,500,000N	
			TRN	B		3,185,000B	
14.	TRN163	PORT ALLEN AIRPORT					
	OPERATING		TRN	26,841B		26,841B	
15.	TRN195	AIRPORTS ADMINISTRATION					
	OPERATING		TRN	113.00*		113.00*	
			TRN	114,222,813B		125,146,703B	
	INVESTMENT CAPITAL		TRN	31,337,000B		8,250,000B	
			TRN	N		1,350,000N	
			TRN	100,000X		100,000X	
16.	TRN301	HONOLULU HARBOR					
	OPERATING		TRN	120.00*		120.00*	
			TRN	21,703,815B		21,589,690B	
	INVESTMENT CAPITAL		TRN	2,500,000B		7,750,000B	
			TRN	5,400,000R			R
17.	TRN303	KALAELOA BARBERS POINT HARBOR					
	OPERATING		TRN	3.00*		3.00*	
			TRN	1,170,786B		1,279,013B	
18.	TRN305	KEWALO BASIN					
	OPERATING		TRN	831,738B		831,738B	
	INVESTMENT CAPITAL		TRN	4,530,000B		1,000,000B	
19.	TRN311	HILO HARBOR					
	OPERATING		TRN	14.00*		14.00*	
			TRN	2,484,037B		2,460,907B	
	INVESTMENT CAPITAL		TRN	700,000B			B
20.	TRN313	KAWAIHAE HARBOR					
	OPERATING		TRN	2.00*		2.00*	
			TRN	1,446,064B		1,549,247B	
	INVESTMENT CAPITAL		TRN	6,500,000B			B
			TRN	2,000N			N
21.	TRN331	KAHULUI HARBOR					
	OPERATING		TRN	18.00*		18.00*	
			TRN	3,387,744B		3,247,744B	
	INVESTMENT CAPITAL		TRN	4,975,000B		500,000B	
22.	TRN341	KAUNAKAKAI HARBOR					
	OPERATING		TRN	1.00*		1.00*	
			TRN	486,419B		486,419B	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
23.	TRN361	- NAWILIWILI HARBOR					
	OPERATING		TRN	15.00*		15.00*	
	INVESTMENT CAPITAL		TRN	2,661,438B		2,629,581B	
				202,000B			B
24.	TRN363	- PORT ALLEN HARBOR					
	OPERATING		TRN	1.00*		1.00*	
	INVESTMENT CAPITAL		TRN	512,293B		517,293B	
				500,000B			B
25.	TRN351	- KAUMALAPAU HARBOR					
	OPERATING		TRN	238,000B		238,000B	
26.	TRN395	- HARBORS ADMINISTRATION					
	OPERATING		TRN	59.00*		59.00*	
	INVESTMENT CAPITAL		TRN	40,777,054B		39,200,221B	
				5,658,000B		5,958,000B	
27.	TRN501	- OAHU HIGHWAYS					
	OPERATING		TRN	228.00*		228.00*	
			TRN	61,945,421B		64,345,156B	
	INVESTMENT CAPITAL		TRN	2,200,000N		2,200,000N	
			TRN	250,000B		5,650,000B	
			TRN	1,200,000C			C
			TRN	28,390,000E		2,940,000E	
			TRN	59,961,000N		18,560,000N	
			TRN	9,999,000R			R
			TRN	700,000X			X
			TRN	17,225,000U			U
28.	TRN511	- HAWAII HIGHWAYS					
	OPERATING		TRN	124.00*		124.00*	
	INVESTMENT CAPITAL		TRN	24,490,830B		22,266,286B	
			TRN	400,000B			B
			TRN	11,870,000E		3,500,000E	
			TRN	43,280,000N		9,600,000N	
			TRN	275,000X			X
29.	TRN531	- MAUI HIGHWAYS					
	OPERATING		TRN	65.00*		65.00*	
	INVESTMENT CAPITAL		TRN	18,396,271B		18,727,123B	
			TRN	2,960,000E		11,140,000E	
			TRN	8,840,000N		39,700,000N	
30.	TRN541	- MOLOKAI HIGHWAYS					
	OPERATING		TRN	12.00*		12.00*	
	INVESTMENT CAPITAL		TRN	3,523,206B		3,608,841B	
			TRN	2,900,000E			E
			TRN	2,800,000N			N
31.	TRN551	- LANAI HIGHWAYS					
	OPERATING		TRN	4.00*		4.00*	
				842,565B		842,565B	
32.	TRN561	- KAUAI HIGHWAYS					
	OPERATING		TRN	51.00*		51.00*	
	INVESTMENT CAPITAL		TRN	13,135,766B		13,217,246B	
			TRN	6,700,000E		5,200,000E	
			TRN	7,200,000N		800,000N	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
33. TRN595 - HIGHWAYS ADMINISTRATION							
	OPERATING		TRN	80.00*		80.00*	
			TRN	76,115,141B		75,442,053B	
	INVESTMENT CAPITAL		TRN	3,655,940N		3,896,940N	
			TRN	18,575,000B		18,000,000B	
			TRN	6,824,000E		6,974,000E	
			TRN	12,902,000N		26,501,000N	
34. TRN597 - HIGHWAY SAFETY							
	OPERATING		TRN	31.00*		31.00*	
			TRN	5,978,053B		5,978,053B	
			TRN	9.00*		9.00*	
			TRN	5,670,816N		5,670,816N	
35. TRN995 - GENERAL ADMINISTRATION							
	OPERATING		TRN	103.00*		103.00*	
			TRN	14,490,186B		13,800,186B	
			TRN	15,519,060N		15,519,060N	
			TRN	140,969R		140,969R	
<b>D. ENVIRONMENTAL PROTECTION</b>							
1. HTH840 - ENVIRONMENTAL MANAGEMENT							
	OPERATING		HTH	57.00*		57.00*	
			HTH	3,509,085A		3,509,085A	
			HTH	60.20*		60.20*	
			HTH	79,786,211B		79,786,211B	
			HTH	47.40*		47.40*	
			HTH	8,716,169N		8,716,169N	
	INVESTMENT CAPITAL		HTH	53.40*		53.40*	
			HTH	164,560,185W		164,560,185W	
			HTH	2,666,000C		2,666,000C	
			HTH	13,327,000N		13,327,000N	
2. AGR846 - PESTICIDES							
	OPERATING		AGR	18.00*		18.00*	
			AGR	930,478A		930,478A	
			AGR	1.00*		1.00*	
			AGR	425,824N		425,824N	
			AGR	4.00*		4.00*	
			AGR	765,470W		765,470W	
3. LNR401 - AQUATIC RESOURCES							
	OPERATING		LNR	27.00*		27.00*	
			LNR	2,555,544A		2,583,530A	
			LNR	1.00*		1.00*	
			LNR	2,436,559N		2,475,409N	
4. LNR402 - NATIVE RESOURCES AND FIRE PROTECTION PROGRAM							
	OPERATING		LNR	56.50*		57.50*	
			LNR	6,027,826A		5,156,310A	
			LNR	3,405,193B		3,405,193B	
			LNR	6.00*		6.00*	
	INVESTMENT CAPITAL		LNR	5,119,080N		5,119,081N	
			LNR	500,000C		500,000C	
5. LNR404 - WATER RESOURCES							
	OPERATING		LNR	21.00*		21.00*	
			LNR	2,412,434A		2,412,670A	
			LNR	3.00*		3.00*	
			LNR	405,730B		405,730B	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
6. LNR405 - CONSERVATION AND RESOURCES ENFORCEMENT							
	OPERATING		LNR	125.25*		135.25*	
			LNR	8,243,905A		8,319,943A	
			LNR	23.00*		23.00*	
			LNR	1,630,890B		1,630,890B	
			LNR	2.75*		2.75*	
			LNR	662,088N		662,088N	
			LNR	1.00*		1.00*	
			LNR	63,831W		63,831W	
7. LNR407 - NATURAL AREA RESERVES AND WATERSHED MANAGEMENT							
	OPERATING		LNR	22.00*		22.00*	
			LNR	1,196,795A		1,196,931A	
			LNR	1.00*		1.00*	
			LNR	8,611,868B		8,111,868B	
			LNR	N		200,000N	
8. HTH850 - OFFICE OF ENVIRONMENTAL QUALITY CONTROL							
	OPERATING		HTH	5.00*		5.00*	
			HTH	319,926A		319,926A	
9. LNR906 - LNR - NATURAL AND PHYSICAL ENVIRONMENT							
	OPERATING		LNR	33.00*		33.00*	
			LNR	1,859,396A		1,869,528A	
			LNR	6.00*		6.00*	
	INVESTMENT CAPITAL		LNR	656,508B		654,008B	
			LNR	5,230,000C		3,688,000C	
10. HTH849 - ENVIRONMENTAL HEALTH ADMINISTRATION							
	OPERATING		HTH	15.00*		15.00*	
			HTH	969,932A		969,932A	
			HTH	.50*		.50*	
			HTH	49,875B		49,875B	
			HTH	14.50*		14.50*	
			HTH	3,037,634N		3,037,634N	
			HTH	14.00*		14.00*	
			HTH	3,262,663W		3,262,663W	
<b>E. HEALTH</b>							
1. HTH100 - COMMUNICABLE DISEASE SERVICES							
	OPERATING		HTH	119.00*		119.00*	
			HTH	14,085,162A		14,083,627A	
			HTH	16.50*		16.50*	
	INVESTMENT CAPITAL		AGS	7,923,827N		7,923,827N	
			AGS	1,510,000C		C	
2. HTH131 - DISEASE OUTBREAK CONTROL							
	OPERATING		HTH	20.60*		20.60*	
			HTH	1,663,977A		1,663,977A	
			HTH	34.40*		34.40*	
			HTH	12,749,641N		12,749,641N	
3. HTH141 - DENTAL DISEASES							
	OPERATING		HTH	25.00*		25.00*	
			HTH	1,743,384A		1,743,384A	
4. HTH730 - EMERGENCY MEDICAL SERVICES AND INJURY PREVENTION SYSTEM							
	OPERATING		HTH	16.00*		16.00*	
			HTH	60,275,468A		59,887,752A	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
			HTH	6,498,658B		4,293,658B	
				3.00*		3.00*	
			HTH	1,268,522N		1,268,522N	
5.	HTH501 -	DEVELOPMENTAL DISABILITIES					
	OPERATING		HTH	236.75*		236.75*	
			HTH	66,576,526A		69,291,905A	
				3.00*		3.00*	
			HTH	1,025,331B		1,025,331B	
			HTH	60,118,132U		63,799,406U	
6.	HTH560 -	FAMILY HEALTH					
	OPERATING		HTH	171.75*		171.75*	
			HTH	45,263,183A		45,109,259A	
				7.00*		7.00*	
			HTH	7,110,659B		7,110,659B	
				183.50*		183.50*	
			HTH	41,946,810N		41,946,810N	
				1.00*		1.00*	
			HTH	1,543,739U		1,543,739U	
7.	HTH580 -	COMMUNITY HEALTH SERVICES					
	OPERATING		HTH	221.00*		221.00*	
			HTH	13,672,308A		13,547,308A	
				110,720B		102,720B	
				11.00*		11.00*	
			HTH	3,821,823N		3,821,823N	
			HTH	1,395,037U		1,395,037U	
8.	HTH590 -	TOBACCO SETTLEMENT					
	OPERATING		HTH	26.00*		26.00*	
			HTH	53,847,266B		53,847,266B	
				3,400,000U		4,700,000U	
9.	HTH595 -	HEALTH RESOURCES ADMINISTRATION					
	OPERATING		HTH	2.00*		2.00*	
	INVESTMENT CAPITAL		HTH	768,296A		718,296A	
				7,025,000C		C	
10.	HTH210 -	HAWAII HEALTH SYSTEMS CORPORATION					
	OPERATING		HTH	53,612,232A		53,622,961A	
				2,836.25*		2,836.25*	
	INVESTMENT CAPITAL		HTH	379,654,000B		403,460,000B	
			HTH	23,920,000C		C	
11.	HTH211 -	KAHUKU HOSPITAL					
	OPERATING		HTH	1,500,000A		1,500,000A	
12.	HTH420 -	ADULT MENTAL HEALTH - OUTPATIENT					
	OPERATING		HTH	198.50*		198.50*	
			HTH	73,268,683A		73,539,423A	
			HTH	22,382,981B		22,382,981B	
			HTH	1,643,030N		1,643,030N	
13.	HTH430 -	ADULT MENTAL HEALTH - INPATIENT					
	OPERATING		HTH	613.50*		613.50*	
	INVESTMENT CAPITAL		AGS	53,743,264A		52,935,434A	
			HTH	3,000,000C		C	
				125,000C		C	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
14.	HTH440 - ALCOHOL AND DRUG ABUSE						
	OPERATING		HTH	22.00*		22.00*	
			HTH	19,286,849A		20,110,201A	
				300,000B		300,000B	
				6.00*		6.00*	
	INVESTMENT CAPITAL		HTH	10,859,867N		10,859,867N	
			HTH	675,000C		C	
15.	HTH460 - CHILD AND ADOLESCENT MENTAL HEALTH						
	OPERATING		HTH	193.50*		193.50*	
				44,103,749A		45,103,749A	
				17.00*		17.00*	
			HTH	19,636,965B		18,636,965B	
			HTH	2,555,977N		2,568,019N	
			HTH	2,260,313U		2,260,313U	
16.	HTH495 - BEHAVIORAL HEALTH ADMINISTRATION						
	OPERATING		HTH	66.50*		66.50*	
			HTH	7,887,389A		7,883,389A	
				3,694,999N		3,694,999N	
17.	HTH610 - ENVIRONMENTAL HEALTH SERVICES						
	OPERATING		HTH	139.00*		139.00*	
				7,305,280A		7,312,709A	
				8.00*		8.00*	
			HTH	991,853B		991,853B	
				6.00*		6.00*	
			HTH	594,682N		594,682N	
				2.00*		2.00*	
			HTH	98,434U		98,434U	
18.	HTH710 - STATE LABORATORY SERVICES						
	OPERATING		HTH	86.00*		86.00*	
				7,400,591A		7,038,341A	
19.	HTH720 - HEALTH CARE ASSURANCE						
	OPERATING		HTH	21.70*		21.70*	
			HTH	1,561,290A		1,554,805A	
				406,000B		406,000B	
				18.10*		18.10*	
			HTH	1,583,243N		1,592,611N	
			HTH	903,403U		903,403U	
20.	HTH906 - STATE HEALTH PLANNING AND DEVELOPMENT AGENCY						
	OPERATING		HTH	8.00*		8.00*	
			HTH	777,118A		677,118A	
				578,000B		114,000B	
21.	HTH760 - HEALTH STATUS MONITORING						
	OPERATING		HTH	26.00*		26.00*	
			HTH	1,602,768A		1,602,768A	
				589,108B		400,037B	
				3.00*		3.00*	
			HTH	397,214N		397,214N	
22.	HTH905 - DEVELOPMENTAL DISABILITIES COUNCIL						
	OPERATING		HTH	1.50*		1.50*	
				182,835A		209,851A	
				6.50*		6.50*	
			HTH	462,315N		462,315N	

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
23. HTH907 - GENERAL ADMINISTRATION							
	OPERATING		HTH	122.50*		122.50*	
			HTH	8,039,987A		8,009,946A	
	INVESTMENT CAPITAL		AGS	1,304,909N		1,304,909N	
			HTH	9,493,000C		5,036,000C	
				700,000C			C
<b>F. SOCIAL SERVICES</b>							
1. HMS301 - CHILD PROTECTIVE SERVICES							
	OPERATING		HMS	294.69*		294.69*	
			HMS	26,578,341A		26,380,946A	
				450,000B		450,000B	
				249.81*		249.81*	
			HMS	37,159,217N		37,159,224N	
2. HMS302 - GENERAL SUPPORT FOR CHILD CARE							
	OPERATING		HMS	26.07*		26.07*	
				1,245,650A		1,245,908A	
				15.93*		15.93*	
			HMS	6,512,325N		6,512,326N	
3. HMS303 - CHILD PROTECTIVE SERVICES PAYMENTS							
	OPERATING		HMS	44,816,013A		44,816,013A	
			HMS	20,095,666N		20,095,666N	
4. HMS305 - CASH SUPPORT FOR CHILD CARE							
	OPERATING		HMS	22,411,811A		22,411,811A	
			HMS	34,250,754N		34,250,754N	
5. HMS501 - IN-COMMUNITY YOUTH PROGRAMS							
	OPERATING		HMS	21.00*		21.00*	
			HMS	7,765,437A		7,354,444A	
			HMS	5,170,848N		5,170,848N	
	INVESTMENT CAPITAL		HMS	614,000C			C
6. HMS503 - HAWAII YOUTH CORRECTIONAL FACILITY (HYCF)							
	OPERATING		HMS	118.50*		118.50*	
				10,460,677A		10,240,499A	
				.50*		.50*	
	INVESTMENT CAPITAL		HMS	16,540U		16,540U	
			HMS	800,000C			C
7. DEF112 - SERVICES TO VETERANS							
	OPERATING		DEF	28.00*		28.00*	
				1,966,063A		1,674,075A	
	INVESTMENT CAPITAL		AGS	300,000C			C
			DEF	1,950,000C		1,000,000C	
8. HMS601 - ADULT AND COMMUNITY CARE SERVICES							
	OPERATING		HMS	99.58*		99.58*	
				11,027,642A		10,987,194A	
				17.92*		17.92*	
			HMS	5,577,856N		5,557,858N	
			HMS	10,000R		10,000R	
	INVESTMENT CAPITAL		HMS	280,106U		280,106U	
			HMS	2,448,000C			C
9. HMS206 - FEDERAL ASSISTANCE PAYMENTS							
	OPERATING		HMS	2,035,806N		2,035,806N	

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
10.	HMS211 - CASH SUPPORT FOR FAMILIES - SELF-SUFFICIENCY						
	OPERATING		HMS	38,182,284A		38,182,284A	
			HMS	41,000,000N		41,000,000N	
11.	HMS212 - CASH SUPPORT FOR AGED, BLIND, DISABLED INDIV						
	OPERATING		HMS	31,055,304A		31,055,304A	
12.	HMS220 - RENTAL HOUSING SERVICES						
	OPERATING		HMS	1.00*		1.00*	
				10,194,240A		5,039,240A	
				200.00*		200.00*	
			HMS	43,869,465N		43,869,475N	
				23.00*		23.00*	
	INVESTMENT CAPITAL		HMS	3,992,323W		3,992,323W	
			HMS	25,000,000C			C
13.	HMS807 - TEACHER HOUSING						
	OPERATING		HMS	322,625W		322,625W	
14.	HMS229 - HPHA ADMINISTRATION						
	OPERATING		HMS	28.00*		28.00*	
				10,870,778N		10,870,780N	
				12.00*		12.00*	
			HMS	1,545,363W		1,545,363W	
15.	HMS225 - PRIVATE HOUSING DEVELOPMENT & OWNERSHIP						
	OPERATING		HMS	9.00*		9.00*	
				1,421,513N		1,421,514N	
				2.00*		2.00*	
			HMS	5,649,020W		5,649,020W	
16.	HMS222 - RENTAL ASSISTANCE SERVICES						
	OPERATING		HMS	4.25*		4.25*	
				1,232,968A		1,233,027A	
				14.75*		14.75*	
			HMS	25,563,391N		25,563,392N	
17.	HMS224 - HOMELESS SERVICES						
	OPERATING		HMS	5.00*		5.00*	
			HMS	11,276,608A		11,011,698A	
	INVESTMENT CAPITAL		HMS	1,369,108N		1,369,108N	
			HMS	850,000C			C
18.	HMS605 - COMMUNITY-BASED RESIDENTIAL SUPPORT						
	OPERATING		HMS	16,982,395A		17,125,395A	
19.	HMS401 - HEALTH CARE PAYMENTS						
	OPERATING		HMS	479,133,108A		497,604,087A	
			HMS	672,850,832N		694,491,153N	
			HMS	44,409,563U		44,409,563U	
20.	HMS236 - CASE MANAGEMENT FOR SELF-SUFFICIENCY						
	OPERATING		HMS	343.21*		343.21*	
				14,339,879A		14,342,932A	
				278.79*		278.79*	
			HMS	16,822,324N		16,822,339N	
21.	HMS238 - DISABILITY DETERMINATION						
	OPERATING		HMS	45.00*		45.00*	
				5,400,884N		5,400,886N	

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				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
22.	ATG500 - CHILD SUPPORT ENFORCEMENT SERVICES						
	OPERATING		ATG	84.32*		84.32*	
				3,840,067A		4,156,893A	
				163.68*		163.68*	
			ATG	15,548,458N		15,384,052N	
			ATG	2,258,937T		2,149,383T	
23.	HMS237 - EMPLOYMENT AND TRAINING						
	OPERATING		HMS	491,214A		491,214A	
			HMS	1,197,541N		1,197,541N	
24.	HHL602 - PLANNING AND DEVELOPMENT FOR HAWAIIAN HOMESTEADS						
	OPERATING		HHL	14.00*		14.00*	
				679,070A		679,274A	
				66.00*		66.00*	
			HHL	5,649,008B		6,900,676B	
			HHL	16,393,455N		9,600,545N	
				51.00*		51.00*	
	INVESTMENT CAPITAL		HHL	3,878,386T		3,878,386T	
			HHL	375,000C			C
25.	HHL625 - MANAGEMENT & GEN SUPPORT FOR HAWAIIAN HOMESTEADS						
	OPERATING		HHL	4.00*		4.00*	
				490,104A		241,246A	
				34.00*		34.00*	
			HHL	3,768,232B		3,768,232B	
				26.00*		26.00*	
			HHL	1,709,126T		1,709,126T	
26.	HTH904 - EXECUTIVE OFFICE ON AGING						
	OPERATING		HTH	3.30*		3.30*	
				6,370,552A		6,119,214A	
				7.45*		7.45*	
	INVESTMENT CAPITAL		HTH	7,443,720N		7,443,720N	
			HTH	250,000C			C
27.	HTH520 - DISABILITY AND COMMUNICATIONS ACCESS BOARD						
	OPERATING		HTH	5.00*		5.00*	
				1,333,468A		1,381,468A	
			HTH	10,000B		10,000B	
				2.00*		2.00*	
			HTH	204,812U		204,812U	
28.	HMS902 - GENERAL SUPPORT FOR HEALTH CARE PAYMENTS						
	OPERATING		HMS	100.74*		100.74*	
				10,143,198A		10,155,716A	
				105.26*		105.26*	
			HMS	17,805,248N		17,839,466N	
29.	HMS903 - GENERAL SUPPORT FOR SELF SUFFICIENCY SERVICES						
	OPERATING		HMS	62.96*		62.96*	
				10,444,592A		10,420,477A	
				57.04*		57.04*	
			HMS	59,079,035N		54,542,326N	
30.	HMS904 - GENERAL ADMINISTRATION (DHS)						
	OPERATING		HMS	174.34*		174.34*	
				9,255,728A		8,765,472A	
				15.66*		15.66*	
			HMS	1,588,905N		1,588,906N	

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				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
31. HMS901 - GENERAL SUPPORT FOR SOCIAL SERVICES							
	OPERATING		HMS	27.56*		27.56*	
				3,148,835A		2,904,283A	
				19.44*		19.44*	
	INVESTMENT CAPITAL		HMS	2,367,302N		2,246,680N	
			HMS	750,000C			C
<b>G. FORMAL EDUCATION</b>							
1. EDN100 - SCHOOL-BASED BUDGETING							
	OPERATING		EDN	12,338.60*		12,350.60*	
			EDN	774,244,048A		772,714,931A	
			EDN	6,280,000B		6,780,000B	
			EDN	171,923,444N		171,760,198N	
			EDN	6,300,000T		6,750,000T	
			EDN	3,000,000U		4,000,000U	
	INVESTMENT CAPITAL		EDN	3,398,000W		3,398,000W	
			EDN	292,158,000B		43,570,000B	
			EDN	650,000C			C
			EDN	1,428,000R			R
			EDN	50,000,000A			A
2. EDN150 - COMPREHENSIVE STUDENT SUPPORT SERVICES							
	OPERATING		EDN	5,615.50*		5,617.50*	
			EDN	361,156,533A		360,363,267A	
				2.00*		2.00*	
			EDN	49,050,756N		49,050,756N	
			EDN	2,000,000W		2,000,000W	
3. EDN200 - INSTRUCTIONAL SUPPORT							
	OPERATING		EDN	232.50*		232.50*	
			EDN	34,454,113A		32,899,478A	
				6.00*		6.00*	
			EDN	1,600,000B		1,700,000B	
			EDN	2,222,450N		2,026,461N	
			EDN	800,000U		800,000U	
4. EDN300 - STATE AND COMPLEX AREA ADMINISTRATION							
	OPERATING		EDN	559.00*		559.00*	
			EDN	50,381,509A		50,982,719A	
				90,000N		90,000N	
5. EDN400 - SCHOOL SUPPORT							
	OPERATING		EDN	644.00*		644.00*	
			EDN	170,290,488A		176,910,025A	
				726.50*		726.50*	
			EDN	23,112,819B		23,112,819B	
				3.00*		3.00*	
			EDN	35,659,876N		35,659,880N	
				4.00*		4.00*	
			EDN	6,000,000W		6,000,000W	
6. EDN500 - SCHOOL COMMUNITY SERVICES							
	OPERATING		EDN	35.50*		35.50*	
			EDN	11,035,725A		11,035,725A	
			EDN	1,939,006B		1,939,006B	
			EDN	3,260,007N		3,260,007N	
			EDN	8,500,000U		9,000,000U	
			EDN	8,030,000W		8,030,000W	

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				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
7.	EDN600 - CHARTER SCHOOLS		EDN	51,635,990A		51,635,990A	
	OPERATING						
8.	EDN941 - RETIREMENT BENEFITS PAYMENTS-DOE		EDN	217,887,927A		220,025,329A	
	OPERATING						
9.	EDN943 - HEALTH PREMIUM PAYMENTS-DOE		EDN	167,498,112A		177,398,618A	
	OPERATING						
10.	EDN915 - DEBT SERVICE PAYMENTS-DOE		EDN	226,612,463A		239,861,260A	
	OPERATING						
11.	AGS807 - SCHOOL R&M, NEIGHBOR ISLAND DISTRICTS				85.00*		85.00*
	OPERATING		AGS	4,896,812A		4,896,812A	
			AGS	1,000,000U		1,000,000U	
12.	EDN407 - PUBLIC LIBRARIES				555.55*		555.55*
	OPERATING		EDN	30,556,588A		30,879,661A	
			EDN	3,125,000B		3,125,000B	
			EDN	1,365,244N		1,365,244N	
	INVESTMENT CAPITAL		AGS	16,425,000C		7,000,000C	
13.	DEF114 - HAWAII NATIONAL GUARD YOUTH CHALLENGE ACADEMY						
	OPERATING		DEF	1,349,934A		1,373,245A	
			DEF	2,054,016N		2,098,686N	
14.	UOH100 - UNIVERSITY OF HAWAII, MANOA						
	OPERATING		UOH	3,543.84*		3,570.84*	
			UOH	237,907,514A		251,382,640A	
			UOH	251.25*		251.25*	
			UOH	200,523,383B		228,721,780B	
			UOH	78.06*		78.06*	
			UOH	5,485,593N		5,485,593N	
			UOH	134.25*		134.25*	
	INVESTMENT CAPITAL		UOH	75,257,917W		75,432,132W	
			UOH	7,764,000C		C	
			UOH			14,383,000E	
			UOH	2,300,000W		W	
15.	UOH210 - UNIVERSITY OF HAWAII, HILO						
	OPERATING		UOH	494.25*		507.75*	
			UOH	32,885,531A		35,289,430A	
			UOH	39.00*		63.00*	
			UOH	15,731,115B		19,590,299B	
			UOH	394,543N		394,543N	
			UOH	1.50*		1.50*	
	INVESTMENT CAPITAL		UOH	3,382,849W		3,382,849W	
			UOH	35,074,000C		1,640,000C	
			UOH	3,300,000N		33,000,000N	
			UOH	2,500,000R		R	
16.	UOH220 - SMALL BUSINESS DEVELOPMENT						
	OPERATING		UOH	993,167A		993,167A	
17.	UOH700 - UNIVERSITY OF HAWAII, WEST OAHU						
	OPERATING		UOH	85.00*		92.00*	
			UOH	5,378,427A		6,247,098A	
			UOH	3,218,568B		3,768,785B	

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				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
			UOH	7,000N		7,000N	
			UOH	328,960W		328,960W	
	INVESTMENT CAPITAL		UOH	100,000,000B			B
			UOH	35,000,000C			C
18.	UOH800 - UNIVERSITY OF HAWAII, COMMUNITY COLLEGES						
				1,771.00*		1,818.00*	
	OPERATING		UOH	113,037,183A		122,542,928A	
				82.00*		82.00*	
			UOH	50,699,176B		54,101,426B	
				15.60*		15.60*	
			UOH	4,444,818N		4,444,818N	
	INVESTMENT CAPITAL		UOH	4,664,323W		4,664,323W	
			UOH	55,198,000C			C
19.	UOH900 - UNIVERSITY OF HAWAII, SYSTEM WIDE SUPPORT						
				414.00*		421.00*	
	OPERATING		UOH	41,759,019A		44,203,422A	
				4.00*		4.00*	
			UOH	10,938,128B		10,938,128B	
				4.00*		4.00*	
			UOH	673,484N		673,484N	
				5.00*		5.00*	
	INVESTMENT CAPITAL		UOH	13,157,802W		13,157,802W	
			UOH	50,000,000C			C
20.	UOH941 - RETIREMENT BENEFITS PAYMENTS-UH						
	OPERATING		UOH	93,215,574A		99,378,567A	
21.	UOH943 - HEALTH PREMIUM PAYMENTS-UH						
	OPERATING		UOH	60,826,187A		65,107,996A	
22.	UOH915 - DEBT SERVICE PAYMENTS-UH						
	OPERATING		UOH	83,868,969A		88,772,332A	
<b>H. CULTURE AND RECREATION</b>							
1.	UOH881 - UNIVERSITY OF HAWAII, AQUARIA						
	OPERATING		UOH	13.00*		13.00*	
				613,504A		614,753A	
				7.00*		7.00*	
			UOH	3,143,689B		3,131,189B	
			UOH	1,000,000W		1,000,000W	
2.	AGS881 - STATE FOUNDATION ON CULTURE AND THE ARTS						
	OPERATING		AGS	10.00*		10.00*	
				3,134,226A		2,164,226A	
				14.00*		14.00*	
			AGS	4,471,223B		4,439,723B	
				2.00*		2.00*	
			AGS	772,791N		773,134N	
			AGS	625,000U		625,000U	
3.	AGS818 - KING KAMEHAMEHA CELEBRATION COMMISSION						
	OPERATING		AGS	51,820A		51,820A	
4.	LNR802 - HISTORIC PRESERVATION						
	OPERATING		LNR	13.00*		13.00*	
				954,937A		955,095A	
			LNR	142,295B		142,295B	

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				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
			LNR	496,629N		496,629N	
		INVESTMENT CAPITAL	LNR	475,000C			C
5.	LNR804	FOREST AND OUTDOOR RECREATION					
		OPERATING	LNR	35.00*		36.00*	
				1,504,967A		1,542,810A	
				3.50*		3.50*	
			LNR	554,877B		554,877B	
				3.50*		3.50*	
			LNR	541,066N		841,066N	
			LNR	605,639W		605,639W	
		INVESTMENT CAPITAL	LNR	1,475,000C		250,000C	
6.	LNR805	RECREATIONAL FISHERIES					
		OPERATING	LNR	7.00*		7.00*	
			LNR	238,640A		238,640A	
			LNR	75,575B		75,575B	
			LNR	811,625N		811,625N	
7.	LNR806	PARKS ADMINISTRATION AND OPERATION					
		OPERATING	LNR	90.00*		90.00*	
				6,554,966A		6,105,464A	
				41.00*		41.00*	
			LNR	5,534,701B		5,221,780B	
			LNR	1,218,456N		1,218,456N	
		INVESTMENT CAPITAL	LNR	20,950,000C			C
8.	LNR801	OCEAN-BASED RECREATION					
		OPERATING	LNR	97.00*		100.00*	
			LNR	15,913,929B		16,029,447B	
			LNR	700,799N		700,799N	
		INVESTMENT CAPITAL	LNR	16,726,000C		4,300,000C	
			LNR	10,000,000D		1,000,000D	
			LNR	9,820,000N		13,820,000N	
9.	AGS889	SPECTATOR EVENTS AND SHOWS - ALOHA STADIUM					
		OPERATING	AGS	39.50*		39.50*	
				8,848,306B		7,565,156B	
		INVESTMENT CAPITAL	AGS	12,430,000C			C
<b>I. PUBLIC SAFETY</b>							
1.	PSD402	HALAWA CORRECTIONAL FACILITY					
		OPERATING	PSD	401.00*		401.00*	
			PSD	21,952,369A		21,952,369A	
			PSD	28,719W		28,719W	
2.	PSD403	KULANI CORRECTIONAL FACILITY					
		OPERATING	PSD	77.00*		77.00*	
				4,881,247A		4,881,247A	
3.	PSD404	WAIAWA CORRECTIONAL FACILITY					
		OPERATING	PSD	113.00*		113.00*	
			PSD	5,565,486A		5,598,781A	
			PSD	15,000W		15,000W	
		INVESTMENT CAPITAL	AGS	2,000,000C			C
4.	PSD405	HAWAII COMMUNITY CORRECTIONAL CENTER					
		OPERATING	PSD	161.00*		161.00*	
				7,201,189A		7,296,164A	

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				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
5.	PSD406 - MAUI COMMUNITY CORRECTIONAL CENTER						
	OPERATING		PSD	187.00*		187.00*	
			PSD	9,289,965A		9,289,965A	
				209,721S		209,721S	
6.	PSD407 - OAHU COMMUNITY CORRECTIONAL CENTER						
	OPERATING		PSD	494.00*		494.00*	
			PSD	26,827,828A		26,827,828A	
				30,000W		30,000W	
7.	PSD408 - KAUAI COMMUNITY CORRECTIONAL CENTER						
	OPERATING		PSD	68.00*		68.00*	
				3,412,796A		3,412,796A	
8.	PSD409 - WOMEN'S COMMUNITY CORRECTIONAL CENTER						
	OPERATING		PSD	132.00*		132.00*	
				6,422,056A		6,422,056A	
9.	PSD410 - INTAKE SERVICE CENTERS						
	OPERATING		PSD	61.00*		61.00*	
				3,607,386A		3,632,490A	
10.	PSD420 - CORRECTIONS PROGRAM SERVICES						
	OPERATING		PSD	184.00*		184.00*	
			PSD	18,347,736A		18,078,763A	
				13,418N		13,418N	
11.	PSD421 - HEALTH CARE						
	OPERATING		PSD	173.10*		173.10*	
			PSD	17,322,037A		17,219,726A	
				52,853N		52,853N	
12.	PSD422 - HAWAII CORRECTIONAL INDUSTRIES						
	OPERATING		PSD	2.00*		2.00*	
				7,335,451W		7,335,451W	
13.	PSD808 - NON-STATE FACILITIES						
	OPERATING		PSD	10.00*		10.00*	
				65,126,204A		66,335,868A	
14.	PSD502 - NARCOTICS ENFORCEMENT						
	OPERATING		PSD	12.00*		12.00*	
			PSD	838,979A		842,316A	
			PSD	198,536N		198,536N	
			PSD	78,640T		T	
				6.00*		6.00*	
			PSD	589,549W		565,549W	
15.	PSD503 - SHERIFF						
	OPERATING		PSD	289.00*		289.00*	
				12,628,813A		12,823,776A	
				7.00*		7.00*	
			PSD	563,336N		563,336N	
				64.00*		64.00*	
			PSD	5,277,821U		5,277,821U	
16.	PSD611 - ADULT PAROLE DETERMINATIONS						
	OPERATING		PSD	3.00*		3.00*	
				238,109A		238,109A	

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				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
17.	PSD612 - ADULT PAROLE SUPERVISION AND COUNSELING						
	OPERATING		PSD	55.00*		55.00*	
				3,534,361A		3,534,361A	
18.	PSD613 - CRIME VICTIM COMPENSATION COMMISSION						
	OPERATING		PSD	8.00*		8.00*	
			PSD	1,843,835B		1,843,835B	
				850,000N		850,000N	
19.	PSD900 - GENERAL ADMINISTRATION						
	OPERATING		PSD	146.10*		146.10*	
			PSD	11,797,667A		11,117,301A	
			PSD	693,832B		693,832B	
			PSD	75,065T		75,065T	
	INVESTMENT CAPITAL		PSD	742,980X		742,980X	
			AGS	5,500,000C			C
			PSD	9,592,000C			C
20.	ATG231 - STATE CRIMINAL JUSTICE INFORMATION AND IDENTIFICATION						
	OPERATING		ATG	29.50*		29.50*	
			ATG	1,739,321A		1,739,474A	
				1.00*		1.00*	
			ATG	1,784,282N		1,784,282N	
				27.50*		27.50*	
			ATG	2,721,519W		2,728,769W	
21.	LNR810 - PREVENTION OF NATURAL DISASTERS						
	OPERATING		LNR	7.50*		7.50*	
				640,686A		629,779A	
				.50*		.50*	
			LNR	269,745N		269,745N	
22.	DEF110 - AMELIORATION OF PHYSICAL DISASTERS						
	OPERATING		DEF	123.80*		123.80*	
			DEF	9,275,405A		8,972,639A	
				72.70*		72.70*	
			DEF	73,483,166N		73,543,310N	
			DEF	464,458S		464,458S	
	INVESTMENT CAPITAL		DEF	12,000,000U		12,000,000U	
			AGS	5,301,000C		3,200,000C	
			AGS	100,000N		100,000N	
			DEF	7,124,000C		480,000C	
			DEF	51,057,000N		6,455,000N	
<b>J. INDIVIDUAL RIGHTS</b>							
1.	CCA102 - CABLE TELEVISION						
	OPERATING		CCA	4.00*		4.00*	
				3,632,334B		1,232,334B	
2.	CCA103 - CONSUMER ADVOCATE FOR COMMUNICATION, UTILITIES, AND TRANSPORTATION SERVICES						
	OPERATING		CCA	23.00*		23.00*	
				2,705,793B		2,705,793B	
3.	CCA104 - FINANCIAL INSTITUTION SERVICES						
	OPERATING		CCA	29.00*		29.00*	
				2,578,281B		2,578,281B	
4.	CCA105 - PROFESSIONAL AND VOCATIONAL LICENSING						
				55.00*		55.00*	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
	OPERATING		CCA	5,331,120B		5,073,120B	
			CCA	5.00*		5.00*	
				2,037,937T		2,037,937T	
5.	BUF901 - PUBLIC UTILITIES COMMISSION			44.00*		51.00*	
	OPERATING		BUF	8,695,562B		9,929,994B	
6.	CCA106 - INSURANCE REGULATORY SERVICES			80.00*		80.00*	
	OPERATING		CCA	11,945,708B		11,945,708B	
			CCA	200,000T		200,000T	
7.	CCA110 - OFFICE OF CONSUMER PROTECTION			16.00*		16.00*	
	OPERATING		CCA	1,600,284B		1,600,284B	
			CCA	50,681T		50,681T	
8.	AGR812 - MEASUREMENT STANDARDS			15.00*		15.00*	
	OPERATING		AGR	719,145A		719,145A	
9.	CCA111 - BUSINESS REGISTRATION AND SECURITIES REGULATION			75.00*		75.00*	
	OPERATING		CCA	6,440,207B		6,440,207B	
10.	CCA112 - REGULATED INDUSTRIES COMPLAINTS OFFICE			65.00*		65.00*	
	OPERATING		CCA	5,253,047B		5,253,047B	
11.	CCA191 - GENERAL SUPPORT			45.00*		45.00*	
	OPERATING		CCA	5,516,080B		5,515,980B	
12.	LTG105 - ENFORCEMENT OF INFORMATION PRACTICES			5.00*		5.00*	
	OPERATING		LTG	411,475A		411,507A	
13.	BUF151 - OFFICE OF THE PUBLIC DEFENDER			81.00*		81.00*	
	OPERATING		BUF	9,262,208A		9,262,982A	
14.	LNR111 - CONVEYANCES AND RECORDINGS			60.00*		60.00*	
	OPERATING		LNR	4,133,370B		4,039,870B	
15.	HMS888 - COMMISSION ON THE STATUS OF WOMEN			1.00*		1.00*	
	OPERATING		HMS	208,056A		158,079A	
<b>K. GOVERNMENT-WIDE SUPPORT</b>							
1.	GOV100 - OFFICE OF THE GOVERNOR			37.00*		37.00*	
	OPERATING		GOV	3,894,690A		3,894,690A	
	INVESTMENT CAPITAL		GOV	1,000C		1,000C	
2.	LTG100 - OFFICE OF THE LIEUTENANT GOVERNOR			3.00*		3.00*	
	OPERATING		LTG	849,617A		849,631A	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
3.	BED144 - STATEWIDE PLANNING AND COORDINATION				19.00*		19.00*
	OPERATING		BED	1,745,173A		1,754,366A	
				4.00*		4.00*	
			BED	2,483,083N		2,358,084N	
			BED	1,000,000W		1,000,000W	
4.	BED103 - STATEWIDE LAND USE MANAGEMENT				6.00*		6.00*
	OPERATING		BED	491,616A		491,668A	
5.	BED130 - ECONOMIC PLANNING AND RESEARCH				17.00*		17.00*
	OPERATING		BED	1,145,127A		1,091,287A	
				4.00*		4.00*	
			BED	1,590,030U		1,590,030U	
6.	BUF101 - DEPARTMENTAL ADMINISTRATION AND BUDGET DIVISION				49.00*		49.00*
	OPERATING		BUF	12,882,630A		12,883,020A	
	INVESTMENT CAPITAL		BUF	342,158,000C		73,570,000C	
7.	AGS871 - CAMPAIGN SPENDING COMMISSION				5.00*		5.00*
	OPERATING		AGS	842,126T		4,670,814T	
8.	AGS879 - OFFICE OF ELECTIONS				17.50*		17.50*
	OPERATING		AGS	2,548,529A		2,703,265A	
				.50*		.50*	
			AGS	7,473,364N		7,473,364N	
9.	TAX100 - TAXATION				195.50*		195.50*
	OPERATING		TAX	9,357,395A		9,365,331A	
10.	TAX105 - TAX SERVICES AND PROCESSING				138.00*		138.00*
	OPERATING		TAX	8,275,362A		7,984,735A	
11.	TAX107 - SUPPORTING SERVICES - REVENUE COLLECTION				71.00*		71.00*
	OPERATING		TAX	7,720,809A		7,734,404A	
			TAX	452,000B		452,000B	
12.	AGS101 - STATEWIDE ACCOUNTING SERVICES				7.00*		7.00*
	OPERATING		AGS	561,741A		561,741A	
13.	AGS102 - EXPENDITURE EXAMINATION				18.00*		18.00*
	OPERATING		AGS	1,107,886A		1,107,886A	
14.	AGS103 - RECORDING AND REPORTING				11.00*		11.00*
	OPERATING		AGS	799,122A		799,122A	
15.	AGS104 - INTERNAL POST AUDIT				12.00*		12.00*
	OPERATING		AGS	688,994A		688,994A	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
16.	BUF115	FINANCIAL ADMINISTRATION					
	OPERATING		BUF	14.00*		14.00*	
				2,146,480A		2,146,541A	
				4.00*		4.00*	
			BUF	6,031,359T		6,031,359T	
			BUF	5,525U		5,525U	
17.	BUF915	DEBT SERVICE PAYMENTS					
	OPERATING		BUF	262,785,613A		278,149,259A	
			BUF	310,481,432U		328,633,592U	
18.	ATG100	LEGAL SERVICES					
	OPERATING		ATG	234.15*		234.15*	
				25,124,297A		23,794,578A	
				18.00*		18.00*	
			ATG	1,893,738B		1,889,738B	
				13.00*		13.00*	
			ATG	8,918,519N		8,534,895N	
			ATG	3,918,000T		3,918,000T	
				54.85*		54.85*	
			ATG	8,049,467U		8,060,717U	
				3.00*		3.00*	
			ATG	3,017,834W		3,017,834W	
19.	AGS131	INFORMATION PROCESSING SERVICES					
	OPERATING		AGS	170.00*		170.00*	
				18,788,346A		16,917,346A	
				33.00*		33.00*	
	INVESTMENT CAPITAL		AGS	2,237,432U		2,237,432U	
				6,195,000C		2,900,000C	
20.	AGS111	ARCHIVES - RECORDS MANAGEMENT					
	OPERATING		AGS	20.00*		20.00*	
				1,069,509A		899,246A	
21.	AGS891	WIRELESS ENHANCED 911 BOARD					
	OPERATING		AGS	9,000,000B		9,000,000B	
22.	HRD102	WORK FORCE ATTRACTION, SELECTION, CLASSIFICATION, AND EFFICIENCY					
	OPERATING		HRD	99.00*		99.00*	
				15,329,604A		15,327,006A	
			HRD	700,000B		700,000B	
			HRD	4,886,281U		4,886,281U	
23.	HRD191	SUPPORTING SERVICES - HUMAN RESOURCES DEV					
	OPERATING		HRD	13.00*		13.00*	
				1,517,864A		1,517,864A	
24.	BUF141	EMPLOYEES' RETIREMENT SYSTEM					
	OPERATING		BUF	83.00*		83.00*	
				11,025,246X		10,950,216X	
25.	BUF143	HAWAII EMPLOYER - UNION TRUST FUND					
	OPERATING		BUF	26.00*		26.00*	
				11,681,399T		4,291,408T	
26.	BUF941	RETIREMENT BENEFITS PAYMENTS					
	OPERATING		BUF	222,439,828A		224,622,703A	
			BUF	311,103,501U		319,403,896U	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
27.	BUF943 - HEALTH PREMIUM PAYMENTS						
	OPERATING		BUF	160,087,751A		168,989,440A	
			BUF	228,324,299U		242,506,614U	
28.	LNR101 - PUBLIC LANDS MANAGEMENT						
	OPERATING		LNR	51.00*		51.00*	
			LNR	11,610,721B		11,575,721B	
			LNR	74,108N		74,108N	
	INVESTMENT CAPITAL		LNR	4,230,000B		2,270,000B	
			LNR	1,660,000C		14,530,000C	
			LNR	250,000R		R	
			LNR	250,000S		S	
29.	AGS203 - STATE RISK MANAGEMENT AND INSURANCE ADMINISTRATION						
	OPERATING		AGS	4.00*		4.00*	
			AGS	4,482,007A		4,027,480A	
			AGS	21,450,000W		21,450,000W	
30.	AGS211 - LAND SURVEY						
	OPERATING		AGS	17.00*		17.00*	
			AGS	862,481A		862,481A	
			AGS	285,000U		285,000U	
31.	AGS223 - OFFICE LEASING						
	OPERATING		AGS	5.00*		5.00*	
			AGS	11,661,035A		11,671,571A	
			AGS	5,500,000U		5,500,000U	
32.	AGS221 - PUBLIC WORKS - PLANNING, DESIGN, AND CONSTRUCTION						
	OPERATING		AGS	16.00*		16.00*	
			AGS	1,542,415A		1,142,415A	
			AGS	4,000,000W		4,000,000W	
	INVESTMENT CAPITAL		AGS	27,475,000C		6,950,000C	
33.	AGS231 - CENTRAL SERVICES - CUSTODIAL SERVICES						
	OPERATING		AGS	158.50*		158.50*	
			AGS	15,549,399A		15,538,909A	
			AGS	58,744B		58,744B	
			AGS	894,001U		894,001U	
34.	AGS232 - CENTRAL SERVICES - GROUNDS MAINTENANCE						
	OPERATING		AGS	38.50*		38.50*	
			AGS	1,985,661A		1,959,361A	
35.	AGS233 - CENTRAL SERVICES - BUILDING REPAIRS AND ALTERATIONS						
	OPERATING		AGS	37.00*		37.00*	
			AGS	3,185,946A		3,203,437A	
36.	AGS240 - STATE PROCUREMENT						
	OPERATING		AGS	22.00*		22.00*	
			AGS	1,281,054A		1,240,416A	
37.	AGS244 - SURPLUS PROPERTY MANAGEMENT						
	OPERATING		AGS	5.00*		5.00*	
			AGS	1,742,788W		1,742,788W	
38.	AGS251 - AUTOMOTIVE MANAGEMENT - MOTOR POOL						
	OPERATING		AGS	12.50*		12.50*	
			AGS	2,416,689W		2,416,689W	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
39.	AGS252	AUTOMOTIVE MANAGEMENT - PARKING CONTROL					
	OPERATING		AGS	26.50*		26.50*	
				3,334,828W		3,334,828W	
40.	AGS901	GENERAL ADMINISTRATIVE SERVICES					
	OPERATING		AGS	39.00*		39.00*	
				2,424,641A		2,429,418A	
			AGS	1.00*		1.00*	
				64,256U		64,256U	
41.	SUB201	CITY AND COUNTY OF HONOLULU INVESTMENT CAPITAL					
			CCH	5,100,000C			C
42.	SUB301	COUNTY OF HAWAII OPERATING INVESTMENT CAPITAL					
			COH	580,000A		580,000A	
			COH	12,000,000U			U
43.	SUB401	COUNTY OF MAUI INVESTMENT CAPITAL					
			COM	100,000C			C

PART III. PROGRAM APPROPRIATION PROVISIONS

ECONOMIC DEVELOPMENT

SECTION 4. Provided that of the general fund appropriation for strategic marketing and support (BED 100), the sum of \$60,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for Hawaii community-based economic development; and provided further that the program shall submit an expenditure report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 5. Provided that of the general fund appropriation for strategic marketing and support (BED 100), the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be deposited into the Hawaii community-based economic development revolving fund for the purposes of providing grants; and provided further that the program shall submit an expenditure report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 6. Provided that of the special fund appropriation for tourism (BED 113), the sum of \$1,000,000 for fiscal year 2007-2008 from the convention center enterprise special fund shall be expended for costs incurred due to additional events at the convention center; provided further that the department shall prepare a report that shall include but not be limited to the following:

- (1) A list of additional events for the convention center that were accepted;
- (2) A detailed list of expenditures that resulted from these additional events;
- (3) The amount of revenue generated as a result of these additional events; and
- (4) A detailed plan for future revenue enhancements;

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and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 regular session.

SECTION 7. Provided that of the special fund appropriation for tourism (BED 113) the sum of \$600,000 out of each fund or so much thereof as may be necessary for fiscal year 2007-2008 to undertake a cost-benefit analysis of the cruiseline industry in the state; provided that the cost-benefit analysis shall consider the array of costs and benefits that the cruiseline industry has upon the:

- (1) Economic welfare;
- (2) Physical environment;
- (3) Historical and cultural assets and practices;
- (4) Social welfare;
- (5) Harbor facilities;
- (6) Safety and security measures;
- (7) Environment and infrastructure;
- (8) Fees;
- (9) Traffic;

provided further that the cost-benefit analysis shall take into account the state as a whole and of each individual county; provided further that the department of business, economic development and tourism will work with the department of transportation; and provided further that the department shall submit a report to the legislature no later than twenty days prior to the convening of the 2008 regular session.

SECTION 8. Provided that of the interdepartmental transfer fund appropriation for plant, pest, and disease control (AGR 122), the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2007-2008 shall be expended by the department of agriculture for improving the Invicta system for plant and pest detection efforts.

SECTION 9. Provided that of the general fund appropriation for plant, pest, and disease control (AGR 122), the sum of \$196,014 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$236,352 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for additional personnel and bio-control research as a response to state mandates to respond to, control, and eradicate established invasive species; provided further that these funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse to the general fund; provided further that the department shall prepare a report that shall include but not be limited to how well Hawaii is doing in the fight against invasive species, including data, measures of effectiveness, cost breakdowns, and outcomes from its efforts to:

- (1) Inspect and detect greater numbers and percentages of invasive species at airports and harbors;
- (2) Jointly work with other agencies and the community; and
- (3) Control and eradicate alien species established in Hawaii;

and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 10. Provided that of the general fund appropriation for plant, pest, and disease control (AGR 122), the sum of \$650,000 or so much thereof as may be necessary for fiscal year 2007-2008 shall be expended to study, control, and mitigate bee mite infestation in the state; provided further that the department shall prepare a report that shall include but not be limited to the status of the bee mite infestation and steps to control and treat the infestation; and provided further that the department submit the report to the legislature no later than twenty days prior to the convening of the 2008 regular session.

SECTION 11. Provided that of the general fund appropriation for rabies quarantine (AGR 131), the sum of \$100,000 for fiscal year 2007-2008 and the same sum for fiscal year 2008-2009 shall be deposited into the animal quarantine special fund to be expended for the purposes of the fund.

SECTION 12. Provided that of the general fund appropriation for agricultural resource management (AGR 141), the sum of \$425,000 for fiscal year 2007-2008 and the same sum for fiscal year 2008-2009 shall be deposited into the irrigation system revolving fund to be expended for the purposes of the fund.

SECTION 13. Provided that of the general fund appropriation for agribusiness development and research (AGR 161), the sum of \$140,558 for fiscal year 2007-2008 and the same sum for fiscal year 2008-2009 shall be deposited into the Hawaii agricultural development revolving fund to be expended for the purposes of the fund.

SECTION 14. Provided that of the general fund appropriation for agribusiness development corporation (AGR 161), the sum of \$50,000 or so much thereof may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for the East Kauai water users' cooperative.

SECTION 15. Provided that of the general fund appropriation for the natural energy laboratory of Hawaii authority (BED 146), the sum of \$365,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended to subsidize the cost of electrical power to produce water for aquaculture tenants at the natural energy laboratory of Hawaii authority; provided further that any unexpended funds shall lapse to the general fund; and provided further that the department of business, economic development, and tourism shall prepare a report that shall include but not be limited to the following information:

- (1) A breakout of the guidelines for the application of these funds;
- (2) A copy of the required report from the tenants indicating how the subsidies have helped the growth and financial stability of their businesses; and
- (3) A statement that clarifies the tenants' understanding that the subsidies will only last for two years and that they will be responsible to pay the current price for the water thereafter;

provided further that the funds shall not be expended for any other purpose; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

## EMPLOYMENT

SECTION 16. Provided that of the general fund appropriations for vocational rehabilitation (HMS 802), the sum of \$102,500 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of human services to establish and maintain a statewide interpreter referral service for public and private agencies and for persons who are deaf, hard of hearing, or deaf-blind; provided further that the funds shall be used to hire a project coordinator, purchase necessary computer equipment, and provide a suitably accessible website; provided further that the department shall prepare a report detailing the status of such interpreter referral service and website; and provided further that the department

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shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 17. Provided that of the general fund appropriation for disability compensation program (LBR 183), the sum of \$78,000 or so much thereof as may be necessary for fiscal year 2007-2008 shall be expended by the department of labor and industrial relations solely for the purpose of replacement and upgrade of computer hardware, software, supporting computer infrastructure, periphery equipment, supplies, electronic servers, switches, printers, and other necessary automation system components as is required to bring the system current with the division's information technology master plan; and provided further that any unexpended funds shall lapse to the general fund.

TRANSPORTATION

SECTION 18. Provided that of the special fund appropriations for the airports division (TRN 102-TRN 195), the following sums specified for special repair and maintenance projects in fiscal biennium 2007-2009 shall be expended for special repair and maintenance purposes only as follows:

<u>Program I.D.</u>	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
TRN 102	\$4,230,000	\$5,217,500
TRN 104	\$1,800,000	\$1,800,000
TRN 111	\$1,076,750	\$ 815,000
TRN 114	\$1,596,750	\$1,730,000
TRN 116	\$ 110,000	\$ 122,500
TRN 118	\$ 100,000	\$ 100,000
TRN 131	\$1,008,000	\$ 483,000
TRN 133	\$ 260,000	\$ 210,000
TRN 135	\$ 520,000	\$ 678,000
TRN 141	\$ 860,000	\$ 500,000
TRN 143	\$ 125,000	\$ 100,000
TRN 151	\$ 140,000	\$ 345,000
TRN 161	\$5,765,000	\$5,765,000
TRN 163	\$ 25,000	\$ 25,000
TRN 195	\$ 750,000	\$ 750,000;

provided further that any unexpended funds shall lapse to the airport special fund; provided further that the department of transportation shall prepare a report on planned uses and actual expenditures of all special repair and maintenance appropriations as of December 1 for each fiscal year; provided further that this report shall also include the previous fiscal year; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 19. Provided that of the special fund appropriation for airports administration (TRN 195), the sum of \$20,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for routine repair and maintenance purposes; provided further that the department of transportation shall prepare a report on planned uses and actual expenditures of all routine repair and maintenance projects as of December 1 for each fiscal year; provided further that this report shall also include the previous fiscal year; and provided further that the department shall submit the report to the legislature no later than twenty days prior

to the convening of the 2008 and 2009 regular sessions; and provided further that any unexpended funds shall lapse to the airport special fund.

SECTION 20. Provided that of the special fund appropriation for airports administration (TRN 195), the sum of \$59,476,905 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$70,726,675 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for the following purposes:

<u>Purpose</u>	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
Interest and principal on general obligation bonds	\$ 11,442	\$ 11,442
Interest and principal on revenue bonds	\$59,465,463	\$70,715,233;

and provided further that any unexpended funds shall lapse to the airport special fund.

SECTION 21. Provided that of the special fund appropriations for the harbors division (TRN 301-TRN 395), the following sums specified for special repair and maintenance projects in fiscal biennium 2007-2009 shall be expended for special repair and maintenance purposes only as follows:

<u>Program I.D.</u>	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
TRN 301	\$5,594,000	\$5,594,000
TRN 303	\$ 331,000	\$ 331,000
TRN 311	\$ 846,000	\$ 846,000
TRN 313	\$ 850,000	\$ 930,000
TRN 331	\$1,395,000	\$1,255,000
TRN 341	\$ 368,400	\$ 368,400
TRN 351	\$ 238,000	\$ 238,000
TRN 361	\$ 850,000	\$ 830,000
TRN 363	\$ 393,000	\$ 393,000;

provided further that any unexpended funds shall lapse to the harbor special fund; provided further that the department of transportation shall prepare a report on planned uses and actual expenditures of all special repair and maintenance appropriations as of December 1 for each fiscal year; provided further that this report shall also include the previous fiscal year; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 22. Provided that of the special fund appropriations for the harbors division (TRN 301-TRN 395), the following sums specified for security in fiscal biennium 2007-2009 shall be expended for security purposes only as follows:

<u>Program I.D.</u>	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
TRN 301	\$2,197,508	\$2,197,508
TRN 303	\$ 530,004	\$ 530,004
TRN 311	\$ 434,892	\$ 454,662
TRN 313	\$ 428,633	\$ 448,205
TRN 331	\$ 276,000	\$ 276,000
TRN 361	\$ 381,375	\$ 399,798
TRN 395	\$1,035,000	\$1,035,000;

provided further that any unexpended funds shall lapse to the harbor special fund; provided further that the department of transportation shall prepare a report on actual expenditures of all security appropriations as of June 30 for each fiscal year; provided further that this report shall include the previous 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 2008 and 2009 regular sessions.

SECTION 23. Provided that of the special fund appropriation for harbors administration (TRN 395), the sum of \$27,084,579 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$25,541,924 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for the following purposes:

<u>Purpose</u>	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
Interest and principal on general obligation bonds	\$ 1,720,310	\$ 2,140,680
Interest and principal on revenue bonds	\$25,364,269	\$23,401,244;

and provided further that any unexpended funds shall lapse to the harbor special fund.

SECTION 24. Provided that of the special fund appropriation for harbors administration (TRN 395), the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of transportation only upon the formal disaster declaration by the governor; provided further that any unexpended funds shall lapse to the harbor special fund; and provided further that the department shall submit a report to the legislature of the disasters declared and the sums expended no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 25. Provided that of the special fund appropriation for harbors administration (TRN 395), the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for the effects of raised security levels of MARSEC II (Maritime Security) or higher, as determined by the Captain of the Port (United States Coast Guard) or the governor; provided further that any unexpended funds shall lapse to the harbor special fund; and provided further that the department of transportation shall submit a report to the legislature detailing all expenditures no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 26. Provided that of the special fund appropriations for the highways division (TRN 501-TRN 561), the following sums specified for special repair and maintenance projects in fiscal biennium 2007-2009 shall be expended for special repair and maintenance purposes only as follows:

<u>Program I.D.</u>	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
TRN 501	\$14,760,486	\$18,668,837
TRN 511	\$12,953,404	\$10,876,404
TRN 531	\$11,096,508	\$11,096,508
TRN 541	\$ 2,560,000	\$ 2,575,000
TRN 551	\$ 515,000	\$ 515,000
TRN 561	\$ 8,021,464	\$ 7,216,134;

provided further that any unexpended funds shall lapse to the state highway fund; provided further that the department of transportation shall prepare a report on planned uses and actual expenditures of all special repair and maintenance appropriations as of December 1 for each fiscal year; provided further that this report shall also include the previous fiscal year; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 27. Provided that of the special fund appropriation for highways administration (TRN 595), the sum of \$52,659,073 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$51,528,823 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for the following purposes:

<u>Purpose</u>	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
Interest and principal on general obligation bonds	\$16,897,126	\$13,081,894
Interest and principal on revenue bonds	\$35,761,947	\$38,446,929;

and provided further that any unexpended funds shall lapse to the highway special fund.

ENVIRONMENTAL PROTECTION

SECTION 28. Provided that of the general fund and special fund appropriations for native resources and fire protection program (LNR 402), the sums of \$1,000,000 and \$1,000,000, respectively, or so much thereof as may be necessary for fiscal year 2007-2008 and the same sums or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of land and natural resources for improving operations of the Hawaii invasive species council to respond to, control, and eradicate established invasive species; provided further that the funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse to their respective funds; provided further that the department shall prepare a report that shall include but not be limited to the overall status of the invasive species efforts for Hawaii and all collected data, measures of effectiveness, cost breakdowns, and outcomes from:

- (1) Inspection, detection, and interception of, and percentages of, invasive species at airports and harbors;
- (2) Control and eradication of invasive species currently established in Hawaii and;
- (3) Proactive steps taken for prevention of the introduction of invasive species, education and awareness efforts, and institution of policies and procedures;

and provided further that the department shall jointly work with other agencies and the community; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 29. Provided that of the general fund appropriation for native resources and fire protection program (LNR 402), the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of land and natural resources to augment the existing firefighter's

contingency fund in support of wildfire containment and operational costs associated with firefighting; provided further that the funds may be expended for replacement of outdated hardware, equipment, firefighting gear, materials, and supplies for general firefighting efforts, overtime compensation for firefighters, and all other operational expenses incurred while performing such duties; and provided further that any unexpended or unencumbered funds shall lapse to the general fund.

SECTION 30. Provided that of the general fund appropriation for conservation and resources enforcement (LNR 405), the sums of:

- (1) \$373,419 or so much thereof as may be necessary for fiscal year 2007-2008 and \$850,740 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for six (6.00 FTE) clerk typist positions, one (1.00 FTE) account clerk position, and eighteen (18.00 FTE) conservation and resources enforcement officer positions over the biennium;
- (2) \$176,250 or so much thereof as may be necessary for fiscal year 2007-2008 and \$141,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for equipment, training, and other start-up costs associated with the conservation and resources enforcement officers; provided further that these expenses shall be considered non-recurring cost items after the close of fiscal year 2008-2009;
- (3) \$300,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for replacement vehicles; provided further that this amount shall be non-recurring after the close of fiscal year 2008-2009;
- (4) \$230,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended to purchase replacement patrol boats and vessels; provided further that this amount shall be non-recurring after the close of fiscal year 2008-2009; and
- (5) \$589,500 or so much thereof as may be necessary for fiscal year 2007-2008 and \$222,500 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for data processing system design, hardware, software, and installation to automate the division of conservation and resources enforcement reports and forms; provided further that this amount shall be non-recurring after the close of fiscal year 2008-2009;

provided further that the department shall prepare a report that shall include but not be limited to data relating to the activities by all conservation and resources enforcement officers that denote general locations, dates, and outcomes, and the improvements made due to increased funding for equipment upgrades and clerical staff; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

## HEALTH

SECTION 31. Provided that of the general fund appropriation for communicable disease services (HTH 100), the sum of \$4,243 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$2,708 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of health to adjust the annual pensions for the residents of Kalaupapa settlement; provided further that Kalaupapa's pensioners receiving less than \$4,000 annually

shall be granted a 5 percent increase in fiscal year 2007-2008 and a 2.5 percent increase in fiscal year 2008-2009; provided further that Kalaupapa's pensioners receiving more than \$4,000 but less than \$5,000 annually shall be granted a 4 percent increase in fiscal year 2007-2008 and a 2.5 percent increase in fiscal year 2008-2009; provided further that Kalaupapa's pensioners receiving \$5,000 or more annually shall be granted a 2.5 percent increase in fiscal year 2007-2008 and a 2.5 percent increase in fiscal year 2008-2009; provided further that the department shall prepare a report updating the pension increases for the residents of Kalaupapa who qualify for an appropriate increase; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 32. Provided that of the general fund appropriation for emergency medical services and injury prevention system (HTH 730), the sum of \$4,089,269 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$3,762,622 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for emergency medical service contracts; provided further that the department shall prepare a detailed report to include but not be limited to a detailed financial report from each county contract to be submitted to the department of health including a detailed breakdown of all expenditures and costs incurred; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 33. Provided that of the general fund appropriation for emergency medical services and injury prevention system (HTH 730), the sum of \$388,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$397,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of health solely for the purpose of purchasing two ambulances and two lifepak 12 defibrillators; provided further that these funds shall not be redirected to pay for any indirect or emergency medical services personnel costs; provided further that any unexpended funds shall lapse into the general fund; and provided further that the program shall prepare and submit an expenditure report to the legislature to account for the ambulances and equipment purchases no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 34. Provided that of the general fund appropriation for emergency medical services and injury prevention system (HTH 730), the sum of \$649,412 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$675,388 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of health to purchase a replacement helicopter for the county of Maui aeromedical emergency medical services program; provided further that the county of Maui shall not be responsible for any cost associated with the purchase of the replacement helicopter; provided further that the funds shall not be used for any other purpose; provided further that these funds shall not be redirected to pay for any indirect or personnel costs; provided further that any unexpended funds shall lapse to the general fund; and provided further that the department shall submit an expenditure report to the legislature to account for the use of these funds no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 35. Provided that of the general fund appropriation for emergency medical services and injury prevention system (HTH 730), the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended to

establish a suicide early intervention and prevention program with an emphasis on the youth population; provided further that this program shall include other individual age groups; provided further that these funds shall be expended by the department of health; provided further that the suicide early intervention and prevention program shall develop strategies to prevent suicide that address youth and all other ages; provided further that the strategies developed by the department shall include but not be limited to the following:

- (1) Identifying and assessing the risk of youth and other individuals referred to the program;
- (2) Creating public awareness by building community networks and providing information to the target groups; and
- (3) Referring the youth and other individuals to resources at the appropriate level of care needed;

provided further that the department shall prepare a detailed report to include expenditures and all activities performed; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 36. Provided that of the general fund appropriation for emergency medical services and injury prevention system (HTH 730), the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of health solely for emergency medical services for the city and county of Honolulu for central Oahu; provided further that any unexpended funds shall lapse to the general fund; and provided further that the program shall submit an expenditure report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 37. Provided that of the special fund appropriation for emergency medical services and injury prevention system (HTH 730), the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended out of the emergency medical services special fund for an emergency medical technician training stipend program to remedy the shortage of mobile intensive care technicians and paramedics; provided further that the department shall prepare a detailed report to include expenditures and all activities performed; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 38. Provided that of the general fund and interdepartmental transfer fund appropriations for developmental disabilities (HTH 501), the following sums indicated below for fiscal biennium 2007-2009 shall be used to continue the implementation of Medicaid home & community-based services:

	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
General funds	\$8,764,412	\$11,479,791
Interdepartmental	\$8,558,196	\$12,239,470;
Transfer funds		

provided further that the department shall prepare a report that shall include but not be limited to the following information:

- (1) The number of individuals aided by the services provided and the capacity of service provided;

- (2) A performance report of services provided and treatment outcomes; and
- (3) A detailed report on all expenditures;

and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 39. Provided that of the general fund appropriation for developmental disabilities (HTH 501), the sum of \$1,800,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to continue to subsidize residents living in apartments and developmental disabilities domiciliary homes for individuals; provided further that the funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse to the general fund; provided further that the department shall prepare a report that shall include but not be limited to the following information:

- (1) The number of individuals aided by the services provided and the capacity of service provided;
- (2) A performance report of services provided and treatment outcome; and
- (3) A detailed report on all expenditures;

and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 40. Provided that of the general fund appropriation for family health (HTH 560), the sum of \$6,753,704 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for early intervention services; provided further that any unexpended funds shall lapse to the general fund; provided further that the early intervention services program shall prepare a detailed report evaluating its delivery of services and specifically focusing on all of the early intervention purchase of services and service for a fee contracts; provided further that the report shall also include but not be limited to the following information:

- (1) A detailed financial report by each of its purchase of services contract providers including a detailed breakdown of services provided, the number of children served by provider each month, and costs incurred including treatment outcomes;
- (2) A detailed financial report by each of its services for a fee contract providers including a detailed breakdown of services provided and funding levels, the number of children served by provider, and treatment outcomes; and
- (3) An aggregate report by the department to the legislature accounting for all its purchase of services and services for a fee contracts rendered by each of the program's contract providers;

provided further that the department shall also prepare a detailed report to include but not be limited to a summary of all findings and substantive recommendations to improve operational and cost efficiencies in the delivery of services and its outcomes; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 41. Provided that of the general fund appropriation for family health (HTH 560), the sum of \$1,248,750 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of health to purchase family planning services for women's health; provided further that any unexpended

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funds shall lapse to the general fund; provided further that the department shall prepare a detailed report to include but not be limited to the following:

- (1) A detailed financial report from each of its purchase of services contract providers to be submitted to the department of health including a detailed breakdown of services provided, the number of clients served each month by provider, costs incurred, and outcomes; and
- (2) An aggregate financial report to be completed by the department for purchase of services rendered by the providers to include all the above; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 42. Provided that of the special fund appropriation for tobacco settlement (HTH 590), the sum of \$12,938,600 for fiscal year 2007-2008 and the same sum for fiscal year 2008-2009 shall be deposited into the emergency and budget reserve fund.

SECTION 43. Provided that of the special fund appropriation for tobacco settlement (HTH 590), the sum of \$19,520,369 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of health for purposes specified in section 328L-4, Hawaii Revised Statutes; provided further that a sum not to exceed \$5,281,061 of the special fund appropriation for fiscal year 2007-2008, and a sum not to exceed \$5,281,061 of the special fund appropriation for fiscal year 2008-2009, shall be transferred to the department of human services to be expended for the children's health insurance program, pursuant to section 328L-4, Hawaii Revised Statutes; and provided further that the amount of moneys transferred shall not exceed the amount of expenditures anticipated for each fiscal year by the children's health insurance program.

SECTION 44. Provided that of the special fund appropriation for tobacco settlement (HTH 590), the sum of \$6,601,326 for fiscal year 2007-2008 and the same sum for fiscal year 2008-2009 shall be deposited into the Hawaii tobacco prevention and control trust fund.

SECTION 45. Provided that of the special fund appropriation for tobacco settlement (HTH 590), the sum of \$14,786,971 for fiscal year 2007-2008 and the same sum for fiscal year 2008-2009 shall be deposited into the university revenue-undertakings fund.

SECTION 46. Provided that of the general fund appropriation for Hawaii health systems corporation (HTH 210), the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be used for physicians on-call for trauma services for acute care hospital emergency rooms in Hilo and Kona on the island of Hawaii and on the island of Maui; provided further that any unexpended funds at the end of the fiscal year for which the moneys are appropriated shall lapse to the general fund; and provided further that the department shall submit a report on the use of the funds to the legislature no later than thirty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 47. Provided that of the general fund appropriation for Kahuku hospital (HTH 211), the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be used for the transitioning of Kahuku hospital into

the Hawaii health systems corporation; provided further that the funds shall not be expended for any other purpose; and provided further that in the event Kahuku hospital does not become a part of the Hawaii health systems corporation, any unexpended funds shall lapse to the general fund.

SECTION 48. Provided that of the general fund appropriation for adult mental health-outpatient (HTH 420), the sum of \$10,000,000 or so much thereof as may be necessary for the fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of health for purchase of service contracts for services for adults with severe and persistent mental illnesses; provided further that the funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse to the general fund; provided further that the department shall prepare a report that shall include but not be limited to a detailed breakout of services provided and costs incurred, including treatment outcome and performance reports on each service provided; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 49. Provided that of the general fund appropriation for adult mental health-inpatient (HTH 430), the sum of \$1,403,825 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$595,995 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of health to support the expansion and integration of the security enhancements at the Hawaii state hospital; provided further the sum of \$1,165,925 or so much thereof as may be necessary shall be used for the purchase of interior and exterior cameras facility wide; provided further the sum of \$125,000 or so much thereof as may be necessary shall be used for video and fiber installation; provided further the sum of \$49,950 or so much thereof as may be necessary shall be used for purchasing access controllers at building L; provided further that the sum of \$62,950 or so much thereof as may be necessary shall be used to purchase access controllers for the Cooke building; provided further that of the total sum, the sum of \$595,995 or so much thereof as may be necessary shall be used for the perimeter fence monitoring system for fiscal year 2008-2009; provided further that any unexpended funds shall lapse to the general fund; provided further that the program shall prepare a detailed report of all its expenditures; and provided further that the program shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 50. Provided that of the general fund appropriation for alcohol and drug abuse (HTH 440), the sum of \$735,833 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$1,817,500 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for adolescent school-based substance abuse treatment programs for intermediate and middle schools; provided further that this expending authority of the department of health shall not be transferred to any other state or private entity; and provided further that any unexpended funds shall lapse to the general fund.

SECTION 51. Provided that of the general fund appropriation for state laboratory services (HTH 710), the sum of \$792,500 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$365,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of health solely for the purpose of purchasing equipment for the state laboratory; provided further that of the total sum, the sum of \$222,000 or so much thereof as

may be necessary for fiscal year 2007-2008 shall be used to purchase two variable speed drives for the state laboratory; provided further that the sum of \$153,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$165,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to purchase new and replacement scientific equipment for medical microbiology; provided further that the sum of \$62,500 or so much thereof as may be necessary for fiscal year 2007-2008 shall be used to purchase equipment for TB testing; provided further that the sum of \$115,000 or so much thereof as may be necessary for fiscal year 2007-2008 shall be used to purchase and install a centrally controlled electronic access system to upgrade the State laboratory division's security system and to replace existing individual access control locks; provided further that the sum of \$240,000 or so much thereof as may be necessary for fiscal year 2007-2008 shall be used to purchase three gas chromatographs to be used for the food section in chemistry; provided further that the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to purchase one gas chromatograph/mass spectrometer-mass spectrometer; provided further that these funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse to the general fund; provided further that the state laboratory services program shall prepare a detailed expenditure report that accounts for all of the laboratory equipment purchases; and provided further that the department shall submit a report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 52. Provided that for state health planning and development agency (HTH 906), a combination of general and special fund appropriations shall be used by the agency to develop and maintain a secure statewide comprehensive health care workforce map and database; provided further that the expending agency shall be the department of health; provided further that of the general fund and special fund appropriations for state health planning and development agency (HTH 906), the sum of \$250,000 in general funds and the sum of \$250,000 in special funds or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$150,000 in general funds or so much thereof as may be necessary for fiscal year 2008-2009 shall be used by the department of health to contract with the appropriate agency to identify and improve healthcare workforce shortages through 2020; provided further that the agency tasked with this responsibility shall develop a plan to improve and to address these workforce shortages; provided further that the agency shall prepare a detailed expenditure report that shall include but not be limited to findings and recommendations relating to the comprehensive health care workforce map and database; and provided further that the agency shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 53. Provided that of the general fund appropriation for developmental disabilities council (HTH 905), the sum of \$44,618 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$70,637 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for a coordinator position and operating funds to support a statewide self-advocacy network for individuals with developmental disabilities; provided further that the program shall prepare a detailed expenditure report including but not limited to a progress report on its activities including performance outcomes; and provided further that the program shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SOCIAL SERVICES

SECTION 54. Provided that of the general fund and federal fund appropriations for child protective services (HMS 301), the sums of \$2,500,000 and \$2,275,000, respectively, or so much thereof as may be necessary for fiscal year 2007-2008 and the same sums or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of human services to improve the state's federally mandated program improvement plan goals by adding services to recruit, train, license, and support resource families (foster homes); provided further that any unexpended funds shall lapse to their respective funds; provided further that the department shall prepare a report that shall include but not be limited to:

- (1) The child and family services report;
- (2) The number of children aided by the services provided by this funding;
- (3) The number of new foster homes licensed due to this contract;
- (4) The breakdown of services with attached dollar amounts per service included; and
- (5) The progress being made towards reaching the program improvement plan goals;

and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 55. Provided that of the general fund appropriation for child protective services (HMS 301), the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2007-2008 shall be expended by the department of human services to conduct child abuse and neglect background checks for foster and adoptive parents; provided further that any unexpended funds shall lapse to the general fund; provided further that the department shall prepare a report that shall include but not be limited to:

- (1) Name of agency receiving the contract;
- (2) Breakdown of costs and services related to this contract;
- (3) Number of adults with completed child abuse and neglect clearance checks;
- (4) Number of adults in process for clearance checks as of the date of the report;
- (5) Number of adults anticipated to receive clearance checks for fiscal year 2008-2009; and
- (6) Number of foster homes receiving full licensing (without provisions) as a result of completed child abuse and neglect clearance checks;

and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 regular session.

SECTION 56. Provided that of the general fund appropriation for child protective services (HMS 301), the sum of \$135,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for administrative appeals mandated by the federal Child Protection and Treatment Act; provided further that the department of human services shall prepare a report that shall include but not be limited to the following information:

- (1) The number of appeals made in the twelve months preceding the month of the report, wherein the sole issue upon appeal was the findings of an investigation by the department of human services of an allegation of child abuse or neglect;
- (2) The number of hearings resulting from the appeals for which a contracted attorney was paid to preside; and

(3) The total expenditures for contracted attorneys presiding over the hearings;  
and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 57. Provided that of the general fund appropriation for Hawaii youth correctional facility (HYCF) (HMS 503), the sum of \$371,100 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$149,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of human services for the purchase of essential equipment and services contracts for the Hawaii youth correctional facility to comply with the Hawaii youth correctional facility and Department of Justice settlement; provided further that the funds shall be expended for the following purposes:

- (1) Purchase of two vans and two trucks;
- (2) Training equipment;
- (3) Sick leave reduction contracts;
- (4) Training contracts;
- (5) Department of the attorney general background checks; and
- (6) The incentive and graduated sanctions programs;

provided further that any unexpended funds shall lapse to the general fund; provided further that the department shall prepare a report that shall include but not be limited to:

- (1) The status of the purchase of the training equipment and contracts broken down by exact dollar amounts;
- (2) The current status of any court mandates to which the Hawaii youth correctional facility is subject to;
- (3) The progress being made towards complying with the Department of Justice settlement; and
- (4) The status of the sick leave reduction program, including but not limited to the amount expended and measures of effectiveness;

and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 58. Provided that of the general fund appropriation for in-community youth programs (HMS 501), the sum of the sum of \$900,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$750,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of human services for a Safehouse on Maui; provided further that the funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse to the general fund; provided further that the department shall prepare a report that shall include, but not be limited to:

- (1) The number of youth residing at both Safehouses;
- (2) The total cost of operating each Safehouse;
- (3) The cost per youth at these facilities;
- (4) Measurable outcomes of helping these youth re-enter society;
- (5) Present and/or future expansion plans for the Safehouse program;
- (6) Measurable statistics of how the Safehouse program is helping with lowering the population of minor offenders at the Hawaii youth correctional facility;
- (7) For each youth entering the program, an evaluation of what placement would have been made in the absence of the Safehouse alternative; and
- (8) A description of all steps being taken towards obtaining Title IV-E funding for the program, including but not limited to steps taken to obtain the cooperation of the family court;

and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 59. Provided that for services to veterans (DEF 112), the department of defense shall conduct a comprehensive assessment of the adequacy of mental health services, medical and rehabilitative services, and job training and employment services for veterans of the conflicts in Iraq and Afghanistan who reside in Hawaii, and prepare a report on its findings; provided further that the report shall include statistics for the current and projected population of these veterans in Hawaii, identification of gaps in services, and recommendations on how to fill the gaps in service; provided further that the report shall include:

- (1) Projections for average costs per veteran served for each type of service;
- (2) Projections on the number of veterans that will require each type of service;
- (3) Total cost projections for each type of service;
- (4) Projected costs of failing to expand each type of service beyond existing levels due to lost productivity; and
- (5) A discussion on the level of federal funds available for each type of service and in aggregate, and the adequacy of federal funding dedicated to meet the needs of these veterans for services;

and provided further that the department shall submit a draft report to the legislature no later than twenty days prior to the convening of the 2008 regular session and a final report no later than February 1, 2008.

SECTION 60. Provided that of the general fund appropriation for adult and community care services (HMS 601), the sum of \$64,881 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$43,254 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for administrative appeals related to adult abuse; provided further that the department of human services shall prepare a report that shall include but not be limited to the following information:

- (1) The number of such appeals made in the twelve months preceding the month of the report, wherein the sole issue upon appeal was the findings of an investigation by the department of human services of an allegation of adult abuse or neglect;
- (2) The number of hearings resulting from the appeals for which a contracted attorney was paid to preside; and
- (3) The total expenditures for contracted attorneys presiding over the hearings;

and provided further that the department shall submit a report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 61. Provided that of the general fund appropriation for rental housing services (HMS 220), the sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended to renovate and repair type A and B vacant units and newly vacated units that become available during the course of normal operations; provided further that any unexpended funds shall lapse to the general fund; provided further that the department of human services shall prepare a detailed report that shall include but not be limited to the following information:

- (1) The number of all type A and B vacant units per housing project;
- (2) The number of days each unit has been vacant;

- (3) The type of work performed to make the unit ready for occupancy;
  - (4) The cost to repair each vacant unit; and
  - (5) The length of time to complete the repairs and renovations;
- and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 sessions.

SECTION 62. Provided that of the general fund appropriation for homeless services (HMS 224), the sum of \$4,350,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for homeless services; provided further that expenditures shall be limited to those services described in the homeless programs' fiscal year 2005-2006 report to the legislature; provided further that any unexpended funds shall lapse to the general fund; provided further that the department of human services shall prepare a report identifying:

- (1) The number of homeless persons assisted in the prior two fiscal years and the number of individuals anticipated to be assisted in the current and succeeding fiscal year;
  - (2) The full list of homeless services rendered; and
  - (3) A detailed financial plan that identifies expenses broken down by cost elements, identified fixed costs, and the average expenditure per client;
- and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 63. Provided that of the general fund and federal fund appropriations for child support enforcement services (ATG 500), the sums of \$93,846 and \$266,687, respectively, or so much thereof as may be necessary for fiscal year 2007-2008 and the sums of \$119,959 and \$313,147, respectively, or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of the attorney general for a pilot project to test a case-based strategy for child support enforcement; provided further that the funds shall not be expended for any other purpose; provided further that the department shall prepare a report that shall include but not be limited to:

- (1) The status the pilot project;
  - (2) An evaluation of the effectiveness of the case-based strategy in resolving deficiencies identified by the state auditor in the 2003 and 2007 audits of the child support enforcement agency;
  - (3) Additional strategies the department will use in the following biennium to address deficiencies identified by the state auditor; and
  - (4) A list of vacant positions in the child support enforcement agency which as currently described do not support the case-based strategy and which should be replaced by more appropriate positions, and what those more appropriate positions would be;
- and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 64. Provided that of the general fund appropriation for executive office on aging (HTH 904), the sum of \$80,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of health to coordinate the family caregiver support services; provided further that the program shall develop strategies to assist these individuals with the available support services; provided further that the strategies developed by the program shall include but not be limited to the following:

- (1) Assessing and identifying caregiver services needed by these individuals referred to the program;
- (2) Referring these individuals to resources at the appropriate level of care needed; and
- (3) Creating public awareness by building community networks and providing information to individuals requiring services;

provided further that the program shall prepare a detailed report to account for all of its activities including outcomes measures; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

## FORMAL EDUCATION

SECTION 65. Provided that of the general fund appropriation for school-based budgeting (EDN 100), the sum of \$2,577,132 for fiscal year 2008-2009 shall be expended by the department of education for equipment and position-related furniture for new facilities; provided further that these cost items shall be considered non-recurring cost items; and provided further that the aforementioned cost items shall be reduced by these amounts at the beginning of fiscal biennium 2009-2011.

SECTION 66. Provided that of the general fund appropriation for school-based budgeting (EDN 100), the sum of \$20,105,474 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education as an additional amount to assist schools in the transition to weighted student formula funding; and provided further that the funds shall be allocated as foundation funds as follows:

- (1) \$63,300 for each elementary school;
- (2) \$84,350 for each middle school;
- (3) \$126,580 for each high school;
- (4) \$147,680 for each combination kindergarten-grade twelve school; and
- (5) \$105,476 for each combination elementary and middle school.

SECTION 67. Provided that of the general fund appropriation for school-based budgeting (EDN 100), the sum of \$1,100,000, or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009, shall be expended by the department of education at the discretion of the superintendent of education to assist schools in the transition to weighted student formula funding; provided further that a minimum of \$100,000 of the funds shall be provided to elementary schools who model full inclusion special education programs; and provided further that the department shall submit a report on expenditures made to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 68. Provided that of the general fund appropriation for school-based budgeting (EDN 100), the sum of \$5,000,000 for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for restructuring schools under No Child Left Behind requirements; provided further that the department shall prepare a report that shall include but not limited to evaluations from each educational consultant assigned to each school on progress of No Child Left Behind restructuring, and report on spending per school for No Child Left Behind restructuring; and provided further that the department shall submit both reports to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

**SECTION 69.** Provided that of the general fund appropriation for school-based budgeting (EDN 100), the sum of \$175,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for the preliminary scholastic assessment test (PSAT) to be administered to students; and provided further that the funds shall not be expended for any other purpose.

**SECTION 70.** Provided that of the general fund appropriation for school-based budgeting (EDN 100), the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2007-2008 shall be expended by the department of education for the engineering and science fair; and provided further that any unexpended funds shall lapse to the general fund.

**SECTION 71.** Provided that of the general fund appropriation for comprehensive student support services (EDN 150), the sum of \$9,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for equipment for the early education task force; provided further that these cost items shall be considered non-recurring cost items; and provided further that the aforementioned cost items shall be reduced by these amounts at the beginning of fiscal biennium 2009-2011.

**SECTION 72.** Provided that of the general fund appropriations for comprehensive student support services (EDN 150), the sum of \$965,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$991,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education to support the early education task force, provide for an early education specialist within the department and to expand the number of Resources for Early Access to Learning program sites.

**SECTION 73.** Provided that of the general fund appropriation for comprehensive student support services (EDN 150), the sum of \$1,566,220 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$769,468 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for the electronic comprehensive student support system; provided further that the department shall prepare a report that shall include but not be limited to the progress and status of the implementation of the electronic comprehensive student support system and the need for contracted services for this project; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

**SECTION 74.** Provided that of the general fund appropriation for state and complex area administration (EDN 300), the sum of \$77,900 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for telecommunication equipment for I-Net connections for connectivity to the centralized help desk; provided further that these cost items shall be considered non-recurring cost items; and provided further that the aforementioned cost items shall be reduced by these amounts at the beginning of fiscal biennium 2009-2011.

**SECTION 75.** Provided that of the general fund appropriation for state and complex area administration (EDN 300), the sum of \$999,964 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$1,000,774 or so much

thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for the electronic student information system; provided further that the department shall prepare a report that shall include but not be limited to the progress and status of the implementation of the electronic student information system; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 76. Provided that the general fund appropriation for state and complex area administration (EDN 300), the sum of \$250,000 or so much thereof as shall be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for the recruitment and retention support center to support the mentor program, para-educator training program provided further that funds shall not be expended for any other purpose; provided further that the department shall prepare a detailed report identifying the program expenditures; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 77. Provided that of the general fund appropriation for school support (EDN 400), the sum of \$12,358,139 or so much thereof as may be necessary for fiscal year 2007-2008, and the sum of \$13,118,345 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for school food services; provided further that the department shall prepare a report that shall include but not be limited to cost saving measures for school food services; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 78. Provided that of the general fund appropriation for school support (EDN 400), the sum of \$9,991,030 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$14,029,731 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for student transportation; provided further that the department shall prepare a report that shall include but not be limited to yearly projections on revenues and expenditures as well as cost saving measures being implemented for student transportation; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 79. Provided that of the general fund appropriation for school support (EDN 400), the sums of:

- (1) \$1,365,962 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$3,182,543 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for increased electricity costs;
- (2) \$655,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$840,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for increased sewer charges; and
- (3) \$148,429 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$352,322 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for increased water charges;

provided further that the department shall prepare a report that shall include but not be limited to current and projected usage as well as current and projected costs of electricity, sewer, and water services; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 80. Provided that of the general fund appropriation for school support (EDN 400), the sum of \$49,048 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education for the energy coordinator position; provided further that the department shall prepare a report that shall include but not be limited to a summary of the various energy efficiency projects and the corresponding change in energy usage as a result of these projects; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 81. Provided that of the general fund appropriation for school support (EDN 400), the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education to Hawaii 3R's as a grant pursuant to chapter 42F, Hawaii Revised Statutes; and provided further that the department shall submit a progress report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 82. Provided that of the general fund appropriation for school support (EDN 400), the sum of \$60,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of education to defray the cost of the Hawaii 3R's coordinator position.

SECTION 83. Provided that of the general fund appropriation for retirement benefits payments-DOE (EDN 941), the sum of \$140,089,459 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$141,464,436 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to pay for pension accumulation contributions for department of education employees and participating employees of charter schools; provided further that the sum of \$77,798,468 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$78,560,893 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to pay for social security/Medicare contributions for department of education employees and participating employees of charter schools; provided further that the amounts shall be transferred to retirement benefits payments (BUF 941) of the department of budget and finance for that purpose; provided further that the funds shall be transferred no later than July 16 of each respective fiscal year; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund.

SECTION 84. Provided that of the general fund appropriation for health premium payments-DOE (EDN 943), the sum of \$167,498,112 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$177,398,618 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to pay for health and other benefits provided by the Hawaii employer-union health benefits trust fund or the voluntary employees' beneficiary association trust (VEBA) for

department of education employees and participating employees of charter schools and shall be transferred to health premium payments (BUF 943) of the department of budget and finance for that purpose; provided further that the funds shall be transferred no later than July 16 of each respective fiscal year; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund.

SECTION 85. Provided that of the general fund appropriation for debt service payments-DOE (EDN 915), the sum of \$226,612,463 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$239,861,260 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to pay for the debt service on general obligation bonds issued for department of education projects and shall be transferred to debt service payments (BUF 915) of the department of budget and finance for that purpose; provided further that the funds shall be transferred no later than July 16 of each respective fiscal year; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund.

SECTION 86. Provided that of the general fund appropriation for public libraries (EDN 407), the sum of \$1,162,565 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$1,521,007 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the Hawaii state public library system for maintenance and energy efficiency projects; provided further that the department of education shall prepare a report that shall include but not be limited to monthly energy usage of the public libraries and tracking decreases in usage corresponding to efficiency projects; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

### HIGHER EDUCATION

SECTION 87. Provided that of the general and revolving fund appropriations for University of Hawaii, Manoa (UOH 100), the sums of \$800,000 and \$400,000, respectively, or so much thereof as may be necessary for fiscal year 2007-2008 and the same sums or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the University of Hawaii in support of the Hawaii AIDS research program and operational costs incurred thereof; provided further that the university shall prepare a report on planned uses and actual expenditures of these appropriations as of December 1 for each fiscal year; provided further that this report shall illustrate progress of the Hawaii AIDS research program and associated research efforts which occur and are initiated as a direct result of these allocated funds; provided further that this report shall also include the previous fiscal year; and provided further that the university shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 88. Section 54 of Act 178, Session Laws of Hawaii 2005, is amended to read as follows:

“SECTION 54. Provided that of the general fund appropriation for the<sup>1</sup> university of Hawaii, Manoa (UOH 100), the sum of \$31,000,000 for fiscal year 2005-2006 shall be used for the purpose of cleaning, repairing, or replacing damaged or destroyed university of Hawaii property as a result of the October 30, 2004 flood; provided further that any unexpended and unencumbered funds shall not lapse as of

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June 30, 2006; provided further that any unexpended and unencumbered funds shall lapse to the general fund as of June 30, [~~2007-~~] 2008.”

SECTION 89. Provided that of the general fund appropriation for University of Hawaii, Manoa (UOH 100), the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for the Quentin Burdick rural health interdisciplinary training program in support of nursing training initiatives and development; and provided further that any funds not expended for this purpose shall lapse to the general fund.

SECTION 90. Provided that of the general fund appropriation for University of Hawaii at Manoa (UOH 100), the sum of \$375,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to establish Hookulaiwi: ‘Aha Ho‘ona‘auao ‘Oiwī (the center for native Hawaiian and indigenous education); provided further that these funds not be used for any other purpose; provided further that no funds shall be released unless matched on a 1:1 basis by the office of Hawaiian affairs; and provided further that any unexpended funds at the end of the fiscal year for which the moneys are appropriated shall lapse to the general fund.

SECTION 91. Provided that of the general fund appropriation for University of Hawaii, Hilo (UOH 210), the sum of \$535,000 for fiscal year 2007-2008 and the sum of \$529,000 for fiscal year 2008-2009 shall be expended in direct support of the Imiloa Hawaii astronomy center; provided further that any unexpended funds shall lapse to the general fund; provided further that the university shall prepare a report of all current expenses, utility costs, maintenance and repair contract costs, and motor vehicle and related repair and maintenance costs which are paid out of these allocations as of December 1 for each fiscal year; provided further that this report shall also include the previous fiscal year; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 92. Provided that of the general fund appropriation for Hawaii small business development center (UOH 220), the sum of \$356,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended to fund one current vacancy for associate state director, to fund one current vacancy in the Hawaii business research library, to fund an additional position in the Honolulu center, to establish a consulting and training program in Kailua-Kona, and for operational expenses for the Honolulu center and any additional expenses and operational expenses of the corporation in general to bring the small business development corporation into compliance with the requirements of the United States Small Business Administration; and provided further that any unexpended and unencumbered funds shall lapse to the general fund.

SECTION 93. Provided that of the general fund appropriation for University of Hawaii, community colleges (UOH 800), the sum of \$1,195,594 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$2,273,625 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the University of Hawaii to cover additional costs related to enrollment growth; provided further that the funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse to the general fund; provided further that the University of Hawaii shall prepare a report that shall include but not be

limited to new classes started on each campus per semester as a result of these funds, the number of students in these classes, and the amount of funds expended; and provided further that the University of Hawaii shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 94. Provided that of the general fund appropriation for University of Hawaii systemwide (UOH 900), the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to fund the B-Plus scholarship program; provided further that the funds shall be deposited into the University of Hawaii student scholarship and assistance special fund; provided further that no funds shall be expended until the University of Hawaii establishes scholarship eligibility criteria that specifies that:

- (1) B-Plus scholarships are for public school graduates who demonstrate financial need;
  - (2) Earn at least a 3.0 high school grade point average;
  - (3) Complete a rigorous high school curriculum; and
  - (4) Continuing students in good standing who meet financial need criteria will be eligible to receive B-Plus scholarships if funds are available;
- and provided further that any unexpended funds shall lapse to the general fund.

SECTION 95. Provided that of the general fund appropriation for retirement benefits payments-UH (UOH 941), the sum of \$60,746,771 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$64,473,642 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to pay for pension accumulation contributions for University of Hawaii employees; provided further that the sum of \$32,468,803 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$34,904,925 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to pay for social security/Medicare contributions for University of Hawaii employees; provided further that the amounts shall be transferred to retirement benefits payments (BUF 941) of the department of budget and finance for that purpose; provided further that the funds shall be transferred no later than July 16 of each respective fiscal year; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund.

SECTION 96. Provided that of the general fund appropriation for health premium payments-UH (UOH 943), the sum of \$60,826,187 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$65,107,996 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to pay for health and other benefits provided by the Hawaii employer-union health benefits trust fund for University of Hawaii employees and shall be transferred to health premium payments (BUF 943) of the department of budget and finance for that purpose; provided further that the funds shall be transferred no later than July 16 of each respective fiscal year; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund.

SECTION 97. Provided that of the general fund appropriation for debt service payments-UH (UOH 915), the sum of \$83,868,969 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$88,772,332 or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to pay for debt service on general obligation bonds issued for University of Hawaii projects and

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shall be transferred to debt service payments (BUF 915) of the department of budget and finance for that purpose; provided further that the funds shall be transferred no later than July 16 of each respective fiscal year; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund.

**CULTURE AND RECREATION**

SECTION 98. Provided that of the general fund appropriation for parks administration and operation (LNR 806), the sum of \$606,534 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of land and natural resources for the purpose of salary, fringe benefits, overtime compensation, and training for county lifeguard services for the islands of Maui and Kauai; provided further that of the above sums, the sum of \$406,469 shall be recurring, set aside for the sole purpose of lifeguard compensation, fringe benefits, and training for the county of Maui; provided further that of the above sums, the sum of \$200,065 shall be recurring, set aside for the sole purpose of lifeguard compensation, fringe benefits, and training for the county of Kauai; and provided further that any unexpended funds shall lapse to the general fund.

SECTION 99. Provided that of the special fund appropriation for parks administration and operation (LNR 806), the sum of \$312,921 or so much thereof as may be necessary for fiscal year 2007-2008 shall be expended by the department to purchase the necessary medical, emergency, and other rescue equipment and supplies to administer general first aid, water assistance, and cardio-pulmonary-resuscitation; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the special fund.

SECTION 100. Provided that of the special fund appropriation for spectator events and shows-Aloha Stadium (AGS 889), the sum of \$1,283,150 for fiscal year 2007-2008, shall be expended for the following purposes:

<u>Purpose</u>	<u>FY 2007-2008</u>
Mobile communication equipment	\$ 78,150
Replacement carts	\$228,000
Video camera system replacement	\$844,000
Video system replacement and upgrade	\$ 50,000
Matrix computer system replacement	\$ 20,000
DVD recording and duplicating system	\$ 23,000
Commercial grade receptacles	\$ 40,000

**PUBLIC SAFETY**

SECTION 101. Provided that of the general fund appropriation for Waiawa correctional facility (PSD 404), the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$26,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of public safety to implement an apprenticeship program for inmates; provided further that any unexpended funds shall lapse to the general fund; provided further that the department shall prepare a report that shall include but not be limited to the following information:

- (1) Measures of effectiveness of the program;

- (2) Following their release, whether former inmates are employed part-time or full-time and whether they are placed in the job sector for which they received their job training; and
- (3) Overall success rates of the program, focusing on recidivism rates; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 102. Provided that of the general fund appropriation for intake service centers (PSD 410), four positions and the sum of \$143,472 or so much thereof as may be necessary for fiscal year 2007-2008 and four positions and the sum of \$168,576 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of public safety to implement a re-entry program assigning one case worker to each intake service branch to ensure that offenders have housing and employment upon release; provided further that any unexpended funds shall lapse to the general fund; provided further that the department shall prepare a report that shall include but not be limited to the following information:

- (1) Measures of effectiveness of the program;
- (2) A description of the types of programs and providers that re-entry programs have assigned to inmates;
- (3) Following their release, whether former inmates who were served by the intake services center are employed part-time or full-time and whether they have obtained housing; and
- (4) Overall success rates of the program, focusing on recidivism rates; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 103. Provided that of the general fund appropriation for corrections program services (PSD 420), the sums of:

- (1) \$408,552 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of public safety to implement transitional work furlough substance abuse treatment services;
- (2) \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of public safety to support the intensive re-entry program that will serve women offenders within one year to six months of release to ensure that offenders have gained the necessary life skills, such as behavioral modification, stress management, personal growth, and development of personal and inmate relationships; and
- (3) \$98,700 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$75,000 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of public safety to support a culinary arts program and landscape architecture program at the women's community correctional center to ensure that offenders have gained, in the case of the culinary arts program, the educational training and skills to obtain an associate degree or certificate in culinary arts through Kapiolani community college or Leeward community college, in the case of the landscape architecture program, an understanding and practical experience related to design and implementation of landscape projects within the correctional facility, and if conditions permit, in the community;

provided further that the funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse to the general fund; provided further that the department shall prepare a report on the above-mentioned activities that shall include but not be limited to the following information:

- (1) Measures of effectiveness of the programs;
  - (2) Following their release, whether former inmates are employed part-time or full-time and whether they are placed in the job sector for which they received their job training; and
  - (3) Overall success rates of the programs, focusing on recidivism rates;
- and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 104. Provided that of the general fund appropriation for corrections program services (PSD 420), the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of public safety to support the inmate transition and job development program to ensure that offenders have gained housing, employment, and other support services; provided further that any unexpended funds shall lapse to the general fund; provided further that the department shall prepare a report that shall include but not be limited to the following information:

- (1) Measures of effectiveness of the program;
  - (2) Following their release, whether former inmates who were served by the intake services center are employed part-time or full-time and whether they have obtained housing; and
  - (3) Overall success rates of the program, focusing on recidivism rates;
- and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 105. Provided that of the general fund appropriation for health care (PSD 421), the sum of \$594,788 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$425,124 or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of public safety for necessary staffing and equipment for mental health services at the Oahu community correctional center, Halawa correctional facility, and the women's community correctional center; provided further that the funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse to the general fund; provided further that the department shall prepare a report for each facility that shall include but not be limited to:

- (1) Appropriate measures of effectiveness;
  - (2) Inmate care based on per-inmate hours of individual and group-based mental health treatment programs;
  - (3) Level of medical management of mental health section inmates;
  - (4) Amount of involuntary treatment, including the use of seclusion, restraints, forced medications, and involuntary hospitalization; and
  - (5) The tracking of inmate mental health improvements or regressions while in the corrections system;
- and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 106. Provided that of the general fund appropriation for amelioration of physical disasters (DEF 110), the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended for relief from major

disasters pursuant to section 127-11, Hawaii Revised Statutes; and provided further that any unexpended funds shall lapse to the general fund.

SECTION 107. Provided that of the general fund appropriation for amelioration of physical disasters (DEF 110), the sum of \$238,967 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended only in the event that temporary positions are required to provide disaster recovery assistance; provided further that any unexpended funds shall lapse to the general fund; and provided further that the department shall submit a report detailing all expenditures to the legislature no later than twenty days prior to the convening of the 2008 and 2009 legislative sessions.

SECTION 108. Provided that for amelioration of physical disasters (DEF 110), the department of defense shall prepare a report on the status of the Hawaii national guard's readiness to respond to natural disasters, including:

- (1) An assessment of equipment and supplies on hand;
- (2) Adequacy of staffing for disaster recovery assistance, including the number of personnel trained to respond to disasters by type of disaster; and
- (3) Adequacy of training for disaster recovery assistance personnel;

provided further that the report shall also contain assessments of the national guard's recruitment efforts, including statistical and demographic information for new recruits and re-enlistments; provided further that the department shall submit a draft of this report to the legislature no later than twenty days prior to the convening of the 2008 regular session and a final report no later than February 1, 2008; and provided further that the department shall submit to the legislature quarterly updates to this report no more than three weeks after the end of each fiscal quarter.

SECTION 109. Provided that for amelioration of physical disasters (DEF 110), the department of defense shall prepare a report on all deployments of national guard personnel for the previous six years in support of overseas missions, including:

- (1) A listing of the number of personnel deployed for each mission;
- (2) The duration of the deployment;
- (3) The cost for the unit for each deployment, including the cost of replacing supplies and equipment; and
- (4) The adequacy of federal support to re-supply and re-equip the Hawaii national guard following deployments;

provided further that the department shall submit a draft report to the legislature no later than twenty days prior to the convening of the 2008 regular session and a final report no later than February 1, 2008; and provided further that the department shall submit to the legislature quarterly updates to this report no more than three weeks after the end of each fiscal quarter.

SECTION 110. Provided that for amelioration of physical disasters (DEF 110), the department of defense shall conduct a comprehensive assessment of the state's disaster warning system, including:

- (1) A compilation of all system failures experienced during emergency warnings in the past five years;
- (2) An explanation of the cause of each system failure; and
- (3) An explanation of what the department has done to rectify the causes of each system failure;

provided further that this assessment shall also include the identification of areas without disaster warning device coverage and the department's plan to provide emergency warnings in those areas over the short and long term; provided further that the department shall prepare a list of all needed improvements to system infrastructure, including cost estimates and projected federal funding available and state funding requirements to make the improvements; provided further that the department shall prepare a multi-year plan to seek the federal and state funding and a work schedule to make the improvements; provided further that the department shall submit a draft report of the above information to the legislature no later than twenty days prior to the convening of the 2008 regular session and a final report no later than February 1, 2008; and provided further that the department shall submit to the legislature quarterly updates to this report no more than three weeks after the end of each fiscal quarter.

### INDIVIDUAL RIGHTS

SECTION 111. Provided that of the special fund appropriation for cable television (CCA 102), the sum of \$2,400,000 or so much thereof as may be necessary for fiscal year 2007-2008 shall be expended for the expansion and update of the state institutional network (INET); provided further that the funds shall be expended as directed by the INET partners group, which includes the University of Hawaii, department of education, department of accounting and general services' information and communication services division, and department of commerce and consumer affairs; and provided further that the department of commerce and consumer affairs shall submit a report to the legislature detailing the expenditure of these funds no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 112. Provided that the public utilities commission (BUF 901) shall prepare a report on the status of hiring the positions authorized by this Act for restructuring; provided further that the report shall detail the progress made towards implementation of the restructuring plan resulting from the organizational review conducted pursuant to Act 143, Session Laws of Hawaii 2006; and provided further that the commission shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

### GOVERNMENT-WIDE SUPPORT

SECTION 113. Provided that of the general fund appropriation for office of the governor (GOV 100), the sum of \$15,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be used for the governor's "contingent fund" pursuant to section 37-71(f), Hawaii Revised Statutes; provided further that the funds may be transferred to other programs and agencies and allotted, with the approval of the governor, to meet contingencies as they arise; and provided further that the office of the governor shall submit a report to the legislature on all expenditures made from the "contingent fund" for the preceding twelve-month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 114. Provided that of the general fund appropriation for departmental administration and budget division (BUF 101), the sum of \$1,150,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended as a

subsidy to the Bishop Museum; and provided further that any unexpended funds shall lapse to the general fund.

SECTION 115. Provided that for the fourteen positions being converted from temporary to permanent in office of elections (AGS 879), no officer or employee of the State 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 shall be transferred or appointed to a civil service position without the necessity of examination; provided further that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws; provided further that 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 the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; and provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

SECTION 116. Provided that of the general fund appropriation for office of elections (AGS 879), the sum of \$25,000 for fiscal year 2008 shall be used for the purchase of three geographic information systems workstations; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund.

SECTION 117. Provided that of the general fund appropriation for office of elections (AGS 879), the sum of \$96,542 or so much thereof may be necessary for fiscal year 2008-2009, shall be used to increase stipends for precinct officials; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund.

SECTION 118. Provided that of the general fund appropriation for office of elections (AGS 879), the sum of \$54,400 or so much thereof may be necessary for fiscal year 2008-2009, shall be used for ballot transportation fuel costs; provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund.

SECTION 119. Provided that of the general fund appropriation for taxation (TAX 100), the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall only be used for contracting with specialized experts to support income, general excise, and other tax audits; provided further that any unexpended funds shall lapse to the general fund; and provided further that the department shall submit an annual report to the legislature no later than December 1, 2007, and on December 1, 2008, detailing the use of these funds and the amount and type of additional taxes assessed resulting from the work of the contractor.

SECTION 120. Provided that of the general fund appropriation for supporting services—revenue collection (TAX 107), the sum of \$25,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be used to improve revenue forecasting accuracy for the council on revenues; and provided further that the department shall submit a report to the legislature no later than December 1, 2007 and December 1, 2008, on efforts to improve revenue forecasting.

**SECTION 121.** Provided that the department of taxation shall prepare a report detailing the level of staffing and funding necessary to administer county surcharge collection; provided further that the report shall describe the total workload related to collection of the county surcharge, provide a listing of staff that support the collection of the county surcharge, the budgeted annual salary for each position, and the approximate percentage of time each position spends on the task; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

**SECTION 122.** Provided that of the general fund appropriation for information processing services (AGS 131), the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2007-2008 shall be used only for increased cost of telephone service contracts; provided further that any unexpended funds shall lapse to the general fund; provided further that the department of accounting and general services shall prepare a report detailing:

- (1) The actual contract rates for telephone service;
- (2) The projected annualized cost of telephone contract costs using the rates for the current and upcoming fiscal year; and
- (3) The amount over or under the amount budgeted for this purpose;

and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 legislative session.

**SECTION 123.** Provided that of the general fund appropriation for information processing services (AGS 131), the sum of \$450,000 for fiscal year 2007-2008 shall be used for information technology expenditures; provided further that the department shall prepare a detailed report on the equipment purchased; provided further that the report shall include but not be limited to a list of items purchased, cost of each item, life expectancy of each item, cost savings provided by each item, and overall space saved; and provided further that the department shall submit this report to the legislature no later than twenty days prior to the convening of the 2008 regular session.

**SECTION 124.** Provided that for information processing services (AGS 131), the department of accounting and general services shall prepare a report on the feasibility and cost of establishing a team of specialists to assist departments in the review of business processes and procedures to identify areas that could benefit from the application of technological enhancements such as scanning and digitizing of records, conversion of manual forms to electronic forms, web-based distribution of forms, and database development; provided further that the specialists would be capable of viewing the needs of the department or program from a functional perspective as well as a technical perspective and possess experience in streamlining workflow processes; provided further that these specialists would conduct cost-benefit analysis to prioritize the use of technology to streamline government operations; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 regular session.

#### **PART IV. CAPITAL IMPROVEMENT PROJECTS**

##### **SECTION 125. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED.**

The sums of money appropriated or authorized in part II of this Act for capital improvements 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 as such projects are 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; and provided further that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.)

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>A. ECONOMIC DEVELOPMENT</b>							
<b>BED142 - GENERAL SUPPORT FOR ECONOMIC DEVELOPMENT</b>							
1.		MAUI ECONOMIC DEVELOPMENT BOARD, INC., MAUI					
		DESIGN AND CONSTRUCTION FOR DEVELOPMENT OF A NEW BUILDING. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN			15		
		CONSTRUCTION			285		
		TOTAL FUNDING	BED		300C		C
2.		HAWAII BUILDING INDUSTRY FOUNDATION, OAHU					
		DESIGN AND CONSTRUCTION FOR DEVELOPMENT OF A TRAINING CENTER. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN			1		
		CONSTRUCTION			999		
		TOTAL FUNDING	BED		1,000C		C
<b>AGR141 - AGRICULTURAL RESOURCE MANAGEMENT</b>							
3.	200603	WAIMANALO IRRIGATION SYSTEM IMPROVEMENTS, MAUNAWILI VALLEY, WAIMANALO, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO THE WAIMANALO IRRIGATION SYSTEM IN MAUNAWILI VALLEY AND OTHER LOCATIONS.					
		PLANS			100		
		DESIGN			580		
		CONSTRUCTION			5,320		
		TOTAL FUNDING	AGR		6,000C		C
4.	P97002	UPCOUNTRY MAUI WATERSHED, MAUI					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE INSTALLATION OF PIPELINE FOR THE UPCOUNTRY MAUI WATERSHED PROJECT, KULA, MAUI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID AND/OR REIMBURSEMENT.					
		PLANS			50		50
		LAND			100		100
		DESIGN			200		200
		CONSTRUCTION			2,650		2,650
		TOTAL FUNDING	AGR		1,500C		1,500C
			AGR		1,500N		1,500N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
5.	200604	KUNIA AGRICULTURAL PARK, OAHU					
		PLANS TO DEVELOP KUNIA AGRICULTURAL PARK.					
		PLANS			250		
		TOTAL FUNDING	AGR		250 C		C
6.	SW0602	STATE IRRIGATION SYSTEM RESERVOIR SAFETY IMPROVEMENTS, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR STATEWIDE RESERVOIR SAFETY IMPROVEMENTS.					
		PLANS			520		
		DESIGN			1,080		
		CONSTRUCTION			8,650		
		TOTAL FUNDING	AGR		10,250 C		C
7.		IRRIGATION SYSTEM IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR IRRIGATION SYSTEM IMPROVEMENTS TO EXTEND THE IRRIGATION WATER DISTRIBUTION SYSTEM IN WAIMANALO.					
		DESIGN			25		
		CONSTRUCTION			375		
		TOTAL FUNDING	AGR		400 C		C
<b>AGR192 - GENERAL ADMINISTRATION FOR AGRICULTURE</b>							
8.	981921	MISCELLANEOUS HEALTH, SAFETY, CODE, AND OTHER REQUIREMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO ADDRESS HEALTH, SAFETY, CODE, AND OTHER REQUIREMENTS, STATEWIDE.					
		DESIGN			100		
		CONSTRUCTION			400		
		TOTAL FUNDING	AGR		500 C		C
9.		HAWAIIAN HUMANE SOCIETY, OAHU					
		DESIGN AND CONSTRUCTION FOR RENOVATIONS TO THE ANIMAL FACILITIES. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN			1		
		CONSTRUCTION			124		
		TOTAL FUNDING	AGR		125 C		C
<b>LNR153 - COMMERCIAL FISHERIES AND RESOURCE ENHANCEMENT</b>							
10.	C00A	ANUENUE FISHERIES RESEARCH CENTER MAINTENANCE AND ELECTRICAL UPGRADES, OAHU					
		DESIGN AND CONSTRUCTION FOR MAINTENANCE AND SAFETY UPGRADES AT THE ANUENUE FISHERIES RESEARCH CENTER, OAHU.					
		DESIGN			30		
		CONSTRUCTION					230
		TOTAL FUNDING	LNR		30 C		230 C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>BED146 - NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY</b>							
11. NELH28 INFRASTRUCTURE AND DISTRIBUTION PIPELINES, HAWAII							
CONSTRUCTION AND EQUIPMENT FOR ADDITIONAL INFRASTRUCTURE AND DISTRIBUTION PIPELINES TO EXPAND THE CAPACITY OF THE EXISTING 55' SEAWATER DISTRIBUTION SYSTEM TO MEET FORECASTED DEMAND FOR SEAWATER AND TO INTERFACE TO A FUTURE OCEAN THERMAL ENERGY CONVERSION (OTEC) POWER PLANT.							
CONSTRUCTION				3,500			
EQUIPMENT				1,750			
TOTAL FUNDING				5,250C			C
<b>LNR141 - WATER AND LAND DEVELOPMENT</b>							
12. G21C NORTH KONA WATER SYSTEM IMPROVEMENTS, HAWAII							
PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR WATER SYSTEM IMPROVEMENTS, INCLUDING WATER SOURCES, WATERLINES, PRESSURE REDUCING VALVE STATIONS, STORAGE RESERVOIRS, AND OTHER RELATED WORK.							
PLANS				1,200			
LAND				5			
DESIGN				1,700			
CONSTRUCTION						11,500	
TOTAL FUNDING				2,905U		11,500U	
13. G76B WAIMEA WELLS, HAWAII							
PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR WELL EXPLORATION AND DEVELOPMENT, INCLUDING CASING INSTALLATION, PUMP TESTING, PUMP, CONTROLS, CONNECTING PIPELINE, AND OTHER RELATED WORK.							
PLANS				1			
LAND				1			
DESIGN				1			
CONSTRUCTION				1,497			
TOTAL FUNDING				1,500S			S
<b>BED150 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY</b>							
14. HCD001 KAKAAKO COMMUNITY DEVELOPMENT DISTRICT, OAHU							
PLANS FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT AND NON-PERMANENT PROJECT-FUNDED STAFF POSITIONS FOR IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY'S KAKAAKO COMMUNITY DEVELOPMENT DISTRICT. FUNDS MAY BE USED TO MATCH FEDERAL AND NON-STATE FUNDS AS MAY BE AVAILABLE.							
PLANS				1,750		1,820	
TOTAL FUNDING				1,750C		1,820C	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
15.	KA016	KAKAAKO DRAINAGE IMPROVEMENT, MAKAI AREA, OAHU					
		DESIGN AND CONSTRUCTION FOR REPAIRS TO OPEN CHANNEL AND BOX DRAIN CULVERT ADJACENT TO KAKAAKO WATERFRONT PARK.					
		DESIGN			1		
		CONSTRUCTION			499		
		TOTAL FUNDING	BED		500C		C
16.	KL004	KALAELOA SAFETY IMPROVEMENTS, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO INSTALL LIFE SAFETY INFRASTRUCTURE IN KALAELOA. PROJECTS MAY INCLUDE: TRAFFIC SIGNALS, DEMOLITION, MARKINGS, SIGNAGE, EMERGENCY CALL BOXES, AND LIGHTING.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			124		
		EQUIPMENT			124		
		TOTAL FUNDING	BED		250C		C
<b>BED160 - HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION</b>							
17.	HFDC01	WAIHOLE VALLEY POTABLE WATER SYSTEM REPLACEMENT, OAHU					
		DESIGN AND CONSTRUCTION FOR DEVELOPMENT OF A NEW POTABLE WATER RESERVOIR TANK AND DISTRIBUTION SYSTEM TO REPLACE THE EXISTING RESERVOIR. REVOLVING FUNDS FROM THE DWELLING UNIT REVOLVING FUND.					
		DESIGN			500		
		CONSTRUCTION			2,000		
		TOTAL FUNDING	BED		2,500W		W
18.		WAIMANALO CONSTRUCTION COALITION, OAHU					
		CONSTRUCTION FOR A BASE YARD. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			125		
		TOTAL FUNDING	BED		125C		C
<b>B. EMPLOYMENT</b>							
<b>LBR903 - OFFICE OF COMMUNITY SERVICES</b>							
1.		WAIKIKI COMMUNITY CENTER, OAHU					
		CONSTRUCTION FOR INSTALLATION OF SAFETY PADDING FOR THE PRESCHOOL PLAYGROUND. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			100		
		TOTAL FUNDING	LBR		100C		C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
2.		THE SALVATION ARMY, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RAY AND JOAN KROC COMMUNITY CENTER IN KAPOLEI. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		PLANS				1	
		LAND				1	
		DESIGN				1	
		CONSTRUCTION				1,496	
		EQUIPMENT				1	
		TOTAL FUNDING	LBR			1,500	C
3.		CATHOLIC CHARITIES OF HAWAII, OAHU					
		DESIGN AND CONSTRUCTION FOR RENOVATION OF THE NEW SOCIAL SERVICES COMMUNITY CENTER. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN				1	
		CONSTRUCTION				287	
		TOTAL FUNDING	LBR			288	C
4.		EASTER SEALS HAWAII, OAHU					
		CONSTRUCTION FOR A MULTI-PROGRAM SERVICE CENTER IN WEST OAHU. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION				1,000	
		TOTAL FUNDING	LBR			1,000	C
5.		KAUAI ECONOMIC OPPORTUNITY, INC., KAUAI					
		DESIGN AND CONSTRUCTION FOR DEVELOPMENT OF A HOMELESS EMERGENCY SHELTER CERTIFIED KITCHEN. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN				1	
		CONSTRUCTION				72	
		TOTAL FUNDING	LBR			73	C
6.		ORI ANUENUE HALE, INC., OAHU					
		DESIGN AND CONSTRUCTION FOR THE DEVELOPMENT OF A COMMUNITY SERVICE FACILITY. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN				1	
		CONSTRUCTION				249	
		TOTAL FUNDING	LBR			250	C
7.		SURFING THE NATIONS FOUNDATION, OAHU					
		LAND ACQUISITION AND CONSTRUCTION FOR THE ACQUISITION AND IMPROVEMENT OF FACILITIES. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		LAND				1	
		CONSTRUCTION				74	
		TOTAL FUNDING	LBR			75	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
8.		WAIPAHU UNITED CHURCH OF CHRIST, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS FOR A COMMUNITY CENTER. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN			1		
		CONSTRUCTION			249		
		TOTAL FUNDING	LBR		250C		C
9.		YMCA OF HONOLULU, OAHU					
		CONSTRUCTION FOR DEVELOPMENT OF PROGRAM FACILITIES. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			250		
		TOTAL FUNDING	LBR		250C		C
10.		KEEHI MEMORIAL ORGANIZATION, OAHU					
		DESIGN AND CONSTRUCTION FOR DEVELOPMENT OF AN ADULT DAY HEALTH CENTER AND CHILD CARE CENTER. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN			1		
		CONSTRUCTION			999		
		TOTAL FUNDING	LBR		1,000C		C
<b>HMS802 - VOCATIONAL REHABILITATION</b>							
11.		ARC OF HILO, HAWAII					
		CONSTRUCTION FOR THE CLIENT SUPPORT SERVICES COMMUNITY AND TRAINING CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			250		
		TOTAL FUNDING	HMS		250C		C
<b>C. TRANSPORTATION FACILITIES</b>							
<b>TRN102 - HONOLULU INTERNATIONAL AIRPORT</b>							
1.	A06A	HONOLULU INTERNATIONAL AIRPORT, NEW PARKING STRUCTURE, OAHU					
		CONSTRUCTION FOR A NEW PARKING STRUCTURE, FACILITIES, AND OTHER RELATED IMPROVEMENTS AT HONOLULU INTERNATIONAL AIRPORT.					
		CONSTRUCTION			16,229		
		TOTAL FUNDING	TRN		16,229E		E
2.	A09A	HONOLULU INTERNATIONAL AIRPORT, NEW CONNECTOR AND AUTOMATED PEOPLE MOVER SYSTEM, OAHU					
		DESIGN AND CONSTRUCTION FOR PREDESIGN, SCHEMATIC DESIGN, AND CONSTRUCTION MANAGEMENT FOR THE AUTOMATED PEOPLE MOVER (APM) SYSTEM AND SUPERSTRUCTURE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		AND DESIGN OF THE APM SYSTEM, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN		9,000			
		CONSTRUCTION		12,256			
		TOTAL FUNDING	TRN	21,256E			E
3.	A11E	HONOLULU INTERNATIONAL AIRPORT, ELLIOTT STREET SUPPORT FACILITIES, OAHU					
		DESIGN AND CONSTRUCTION FOR SUPPORT FACILITIES NEAR ELLIOTT STREET INCLUDING MAINTENANCE FACILITIES, CARGO FACILITIES, RELOCATION OF TAXIWAYS, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN		3,337			66
		CONSTRUCTION		11,188			7,153
		TOTAL FUNDING	TRN	14,525E			7,219E
4.	A30A	HONOLULU INTERNATIONAL AIRPORT, ELECTRICAL SYSTEM IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR IMPROVEMENTS TO THE ELECTRICAL DISTRIBUTION SYSTEM AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		31,178			
		TOTAL FUNDING	TRN	22,178E			E
			TRN	9,000N			N
5.	A35C	HONOLULU INTERNATIONAL AIRPORT, SIGNAGE IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR SIGNAGE IMPROVEMENTS IN THE TERMINAL AND OTHER RELATED IMPROVEMENTS.					
		CONSTRUCTION		12,905			
		TOTAL FUNDING	TRN	12,905B			B
6.	A37C	HONOLULU INTERNATIONAL AIRPORT, UTILITY INFRASTRUCTURE IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR IMPROVEMENTS TO THE UTILITY INFRASTRUCTURE SYSTEM AND RELATED IMPROVEMENTS. IMPROVEMENTS MAY INCLUDE WATER, FIRE SPRINKLER, TELEPHONE DISTRIBUTION, AND STORM WATER SYSTEMS.					
		CONSTRUCTION		5,855			
		TOTAL FUNDING	TRN	5,855B			B
7.	A41Q	HONOLULU INTERNATIONAL AIRPORT, NEW MAUKA CONCOURSE IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR A NEW COMMUTER TERMINAL, THE CONSTRUCTION OF A NEW MAUKA CONCOURSE NEAR THE INTERISLAND TERMINAL, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN		4,276			30
		CONSTRUCTION		3,064			960
		TOTAL FUNDING	TRN	7,340E			990E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
8. A41R		HONOLULU INTERNATIONAL AIRPORT, DIAMOND HEAD CONCOURSE IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR THE RELOCATION OF TENANTS AT THE DIAMOND HEAD CONCOURSE, DEMOLITION OF THE EXISTING AND REPLACEMENT OF A NEW DIAMOND HEAD CONCOURSE, AND OTHER RELATED IMPROVEMENTS.					
					15,355		125
					20,750		7,070
		TOTAL FUNDING	TRN		36,105E		7,195E
9. A41S		HONOLULU INTERNATIONAL AIRPORT, PROGRAM MANAGEMENT, OAHU					
		DESIGN FOR PROGRAM MANAGEMENT OF THE TERMINAL MODERNIZATION PROGRAM AT THE AIRPORT.					
					25,000		
		TOTAL FUNDING	TRN		25,000E		E
<b>TRN104 - GENERAL AVIATION</b>							
10. A71C		KALAELOA AIRPORT, FACILITY IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR KALAELOA AIRPORT FACILITY IMPROVEMENTS INCLUDING LEASE LOTS, APRONS, RUNWAYS, TAXIWAYS, AND AVIATION FACILITIES SUCH AS THE CONTROL TOWER, AIRPORT RESCUE FIRE FIGHTING (ARFF) BUILDING, T-HANGAR, AVIATION FUEL SYSTEM, AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
					6,455		
		TOTAL FUNDING	TRN		650B		B
					5,805N		N
<b>TRN111 - HILO INTERNATIONAL AIRPORT</b>							
11. B10B		HILO INTERNATIONAL AIRPORT, CARGO BUILDING AND RAMP, HAWAII					
		CONSTRUCTION FOR ADDITIONAL CARGO FACILITIES WITHIN THE AIRPORT INCLUDING A CARGO RAMP AND OTHER RELATED IMPROVEMENTS.					
					20,850		
		TOTAL FUNDING	TRN		20,850B		B
12. B10V		HILO INTERNATIONAL AIRPORT, TAXIWAY F IMPROVEMENTS, HAWAII					
		DESIGN FOR TAXIWAY F AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
							405
		TOTAL FUNDING	TRN			B	405B

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
13.	B10W	HILO INTERNATIONAL AIRPORT, PARKING LOT EXPANSION, HAWAII					
		CONSTRUCTION FOR ADDITIONAL PARKING SPACES AND OTHER RELATED IMPROVEMENTS AT THE AIRPORT.					
		CONSTRUCTION					3,235
		TOTAL FUNDING	TRN		B		3,235B
<b>TRN114 - KONA INTERNATIONAL AIRPORT AT KEAHOLE</b>							
14.	C03T	KONA INTERNATIONAL AIRPORT AT KEAHOLE, TERMINAL EXPANSION, HAWAII					
		CONSTRUCTION FOR THE TERMINAL EXPANSION PROGRAM.					
		CONSTRUCTION		6,460			
		TOTAL FUNDING	TRN	6,460E			E
15.	C03V	KONA INTERNATIONAL AIRPORT AT KEAHOLE, PARKING LOT EXPANSION, HAWAII					
		CONSTRUCTION FOR ADDITIONAL PARKING SPACES AND OTHER RELATED IMPROVEMENTS AT THE AIRPORT.					
		CONSTRUCTION		7,105			
		TOTAL FUNDING	TRN	7,105B			B
16.	C03W	KONA INTERNATIONAL AIRPORT AT KEAHOLE, STORMWATER PERMIT COMPLIANCE, HAWAII					
		CONSTRUCTION FOR ENVIRONMENTAL IMPROVEMENTS INCLUDING INSTALLATION OF WASHRACKS AND OTHER RELATED IMPROVEMENTS TO MEET ENVIRONMENTAL REGULATIONS.					
		CONSTRUCTION		1,256			
		TOTAL FUNDING	TRN	1,256B			B
17.	C03X	KONA INTERNATIONAL AIRPORT AT KEAHOLE, PROGRAM MANAGEMENT SUPPORT, HAWAII					
		DESIGN FOR PROGRAM MANAGEMENT OF THE EXPANSION PROGRAM AT THE AIRPORT.					
		DESIGN		250			
		TOTAL FUNDING	TRN	250B			B
<b>TRN131 - KAHULUI AIRPORT</b>							
18.	D04D	KAHULUI AIRPORT, TERMINAL IMPROVEMENTS, MAUI					
		DESIGN AND CONSTRUCTION OF TERMINAL IMPROVEMENTS INCLUDING AN ADDITIONAL GATE, LOFT SPACE, CONFERENCE ROOM, FAMILY RESTROOMS, REROOFING, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN		605			
		CONSTRUCTION		8,415			3,880
		TOTAL FUNDING	TRN	9,020E			3,880E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
19.	D04M	KAHULUI AIRPORT, ACCESS ROAD, MAUI					
		CONSTRUCTION FOR A NEW ACCESS ROAD TO THE AIRPORT FROM HANA HIGHWAY. IMPROVEMENTS INCLUDE SITE WORK, PAVING, ELECTRICAL, DRAINAGE, UTILITIES, AND OTHER RELATED IMPROVEMENTS.					
		CONSTRUCTION		22,313			
		TOTAL FUNDING	TRN	22,313B			B
20.	D04O	KAHULUI AIRPORT, PROGRAM MANAGEMENT SUPPORT, MAUI					
		DESIGN FOR PROGRAM MANAGEMENT OF THE MODERNIZATION PROGRAM AT THE AIRPORT.					
		DESIGN		250			
		TOTAL FUNDING	TRN	250B			B
21.	D06B	KAHULUI AIRPORT, PARKING LOT EXPANSION, MAUI					
		DESIGN AND CONSTRUCTION OF ADDITIONAL PARKING SPACES AND OTHER RELATED IMPROVEMENTS AT THE AIRPORT.					
		DESIGN		1,005			
		CONSTRUCTION				6,460	
		TOTAL FUNDING	TRN	1,005B		6,460B	
22.	D08O	KAHULUI AIRPORT, STORMWATER PERMIT COMPLIANCE, MAUI					
		CONSTRUCTION FOR ENVIRONMENTAL IMPROVEMENTS INCLUDING INSTALLATION OF WASHRACKS AND OTHER RELATED IMPROVEMENTS TO MEET ENVIRONMENTAL REGULATIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		4,201			
		TOTAL FUNDING	TRN	3,252B			B
			TRN	949N			N
<b>TRN141 - MOLOKAI AIRPORT</b>							
23.	D55B	MOLOKAI AIRPORT ARFF STATION IMPROVEMENTS, MOLOKAI					
		CONSTRUCTION FOR THE MOLOKAI AIRPORT AIRCRAFT RESCUE AND FIRE FIGHTING (ARFF) STATION IMPROVEMENTS INCLUDING SITE WORK, DEMOLITION, RECONSTRUCTION AND/OR REPLACEMENT OF BUILDING, UTILITIES, DRIVEWAY WITH PARKING AREA, AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		6,910			
		TOTAL FUNDING	TRN	700B			B
			TRN	6,210N			N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F

TRN151 - LANAI AIRPORT

24. D70E LANAI AIRPORT, GENERAL AVIATION APRON, LANAI

CONSTRUCTION FOR A GENERAL AVIATION APRON AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CONSTRUCTION			3,530		
TOTAL FUNDING	TRN		10B		B
	TRN		3,344N		N
	TRN		176R		R

TRN161 - LIHUE AIRPORT

25. E03R LIHUE AIRPORT, PARKING LOT EXPANSION, KAUAI

CONSTRUCTION FOR ADDITIONAL PARKING SPACES AND OTHER RELATED IMPROVEMENTS AT THE AIRPORT.

CONSTRUCTION					3,185
TOTAL FUNDING	TRN			B	3,185B

TRN195 - AIRPORTS ADMINISTRATION

26. F04J AIRPORT PLANNING STUDY, STATEWIDE

PLANS FOR AIRPORT IMPROVEMENTS, ECONOMIC STUDIES, RESEARCH, NOISE MONITORING STUDIES, NOISE COMPATIBILITY STUDIES, AND ADVANCE PLANNING OF FEDERAL AID AND NON-FEDERAL AID PROJECTS.

PLANS			700		500
TOTAL FUNDING	TRN		700B		500B

27. F04S KONA INTERNATIONAL AIRPORT AT KEAHOLE, ENVIRONMENTAL IMPACT STATEMENT, HAWAII

PLANS FOR AN ENVIRONMENTAL IMPACT STATEMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

PLANS					1,500
TOTAL FUNDING	TRN			B	150B
	TRN			N	1,350N

28. F05D LOADING BRIDGE MODERNIZATION, STATEWIDE

CONSTRUCTION FOR THE INSTALLATION OF NEW PASSENGER LOADING BRIDGES, THE REMOVAL OF THE EXISTING LOADING BRIDGES, AND OTHER RELATED IMPROVEMENTS AT AIRPORTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. (OTHER FUNDS FROM PASSENGER FACILITY CHARGES).

CONSTRUCTION			23,901		
TOTAL FUNDING	TRN		23,901B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
29.	F05F	STREET AND OUTDOOR LIGHTING IMPROVEMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR STREET AND OUTDOOR LIGHTING IMPROVEMENTS AT STATEWIDE AIRPORTS.					
		DESIGN			205		
		CONSTRUCTION					1,280
		TOTAL FUNDING	TRN		205 B		1,280 B
30.	F08F	AIRPORTS DIVISION CAPITAL IMPROVEMENT PROGRAM PROJECT STAFF COSTS, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S AIRPORTS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM PROJECT RELATED POSITIONS. (OTHER FUNDS FROM PASSENGER FACILITY CHARGES)					
		PLANS			370		370
		DESIGN			300		300
		CONSTRUCTION			1,661		1,750
		TOTAL FUNDING	TRN		2,231 B		2,320 B
			TRN		100 X		100 X
31.	F08G	MISCELLANEOUS AIRPORT PROJECTS, STATEWIDE					
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS AT VARIOUS STATE AIRPORTS. IMPROVEMENTS FOR SAFETY AND CERTIFICATION REQUIREMENTS, OPERATIONAL EFFICIENCY, AND PROJECTS REQUIRED FOR AIRPORT RELATED DEVELOPMENT.					
		DESIGN			1,000		1,000
		CONSTRUCTION			2,500		2,500
		TOTAL FUNDING	TRN		3,500 B		3,500 B
32.	F08O	CONSTRUCTION MANAGEMENT SUPPORT, STATEWIDE					
		CONSTRUCTION FOR CONSTRUCTION MANAGEMENT SUPPORT AT AIRPORT FACILITIES, STATEWIDE.					
		CONSTRUCTION			300		
		TOTAL FUNDING	TRN		300 B		B
33.	F08Q	ARCHITECTURAL AND ENGINEERING SUPPORT, STATEWIDE					
		DESIGN AND CONSTRUCTION OF VARIOUS PROJECTS REQUIRING ARCHITECTURAL OR ENGINEERING CONSULTANT SUPPORT AT AIRPORTS, STATEWIDE.					
		DESIGN			250		250
		CONSTRUCTION			250		250
		TOTAL FUNDING	TRN		500 B		500 B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>TRN301 - HONOLULU HARBOR</b>							
34. J20		IMPROVEMENTS TO PIERS 39-40 COMPLEX, HONOLULU HARBOR, OAHU					
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO THE PIER 39-40 AREA INCLUDING DEMOLITION OF BUILDINGS AND OTHER IMPROVEMENTS.					
		DESIGN			700		
		CONSTRUCTION				5,750	
		TOTAL FUNDING	TRN		700B	5,750B	
35. J33		KAPALAMA CONTAINER TERMINAL FACILITY, HONOLULU HARBOR, OAHU					
		DESIGN AND CONSTRUCTION FOR THE DEVELOPMENT OF A NEW CONTAINER TERMINAL FACILITY AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			500		
		CONSTRUCTION			1,000		
		TOTAL FUNDING	TRN		1,500B		B
36. J41		IMPROVEMENTS TO PIERS 19-35, HONOLULU HARBOR, OAHU					
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO PIERS 19-35 AREAS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			300		
		CONSTRUCTION				2,000	
		TOTAL FUNDING	TRN		300B	2,000B	
37. J06		SAND ISLAND CONTAINER YARD IMPROVEMENTS, HONOLULU HARBOR, OAHU					
		CONSTRUCTION OF IMPROVEMENTS TO THE CONTAINER YARD INCLUDING RECONSTRUCTION OF PAVING, LIGHTING, UTILITIES, AND OTHER IMPROVEMENTS.					
		CONSTRUCTION			3,500		
		TOTAL FUNDING	TRN		3,500R		R
38. J07		PIER 51B CONTAINER YARD IMPROVEMENTS, HONOLULU HARBOR, OAHU					
		CONSTRUCTION OF IMPROVEMENTS TO THE CONTAINER YARD INCLUDING RECONSTRUCTION OF PAVING, DRAINAGE, UTILITIES, AND OTHER IMPROVEMENTS.					
		CONSTRUCTION			1,900		
		TOTAL FUNDING	TRN		1,900R		R

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>TRN305 - KEWALO BASIN</b>							
39.		KEWALO BASIN IMPROVEMENTS, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR KEWALO BASIN IMPROVEMENTS FOR UTILITIES FOR ALL PIERS AND FACILITIES, HARDSCAPE, AND REPAIR/REPLACEMENT OF PIERS B,C, AND HERRINGBONE.					
		PLANS		29			
		DESIGN		450		100	
		CONSTRUCTION		4,050		860	
		EQUIPMENT		1		40	
		TOTAL FUNDING	TRN	4,530B		1,000B	
<b>TRN311 - HILO HARBOR</b>							
40. L01		NAVIGATIONAL IMPROVEMENTS, HILO HARBOR, HAWAII					
		PLANS FOR DEEPENING, WIDENING, AND OTHER IMPROVEMENTS TO THE NAVIGATIONAL AREAS AT HILO HARBOR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS		700			
		TOTAL FUNDING	TRN	700B			B
<b>TRN313 - KAWAIHAE HARBOR</b>							
41. L03		HARBOR IMPROVEMENTS, KAWAIHAE HARBOR, HAWAII					
		DESIGN AND CONSTRUCTION OF VARIOUS IMPROVEMENTS AT KAWAIHAE HARBOR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		200			
		CONSTRUCTION		1,301			
		TOTAL FUNDING	TRN	1,500B			B
			TRN	1N			N
42. L11		PIER 4 CONSTRUCTION AND SITE WORK IMPROVEMENTS, KAWAIHAE HARBOR, HAWAII					
		DESIGN AND CONSTRUCTION OF A NEW PIER 4, STORAGE YARD AND OTHER RELATED SITE IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		600			
		CONSTRUCTION		4,401			
		TOTAL FUNDING	TRN	5,000B			B
			TRN	1N			N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>TRN331 - KAHULUI HARBOR</b>							
43.	M09	BARGE TERMINAL IMPROVEMENTS, KAHULUI HARBOR, MAUI					
		CONSTRUCTION FOR IMPROVEMENTS TO THE BARGE TERMINAL INCLUDING YARD, ROADWAY, BUILDING, AND OTHER RELATED IMPROVEMENTS.					
		CONSTRUCTION			1,000		
		TOTAL FUNDING	TRN		1,000B		B
44.	M11	NAVIGATIONAL IMPROVEMENTS, KAHULUI HARBOR, MAUI					
		PLANS FOR DEEPENING, WIDENING, AND OTHER IMPROVEMENTS TO THE NAVIGATIONAL AREAS AT KAHULUI HARBOR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS			700		
		TOTAL FUNDING	TRN		700B		B
45.	M13	KAHULUI WEST HARBOR DEVELOPMENT PLAN, KAHULUI HARBOR, MAUI					
		PLANS FOR DEVELOPMENT PLAN FOR IMPROVING NEW TERMINAL CARGO FACILITIES AT THE KAHULUI WEST HARBOR BREAKWATER AREA.					
		PLANS			200		
		TOTAL FUNDING	TRN		200B		B
46.	M14	WHARF STREET SHED DEMOLITION AND SITEWORK IMPROVEMENTS, KAHULUI HARBOR, MAUI					
		DESIGN AND CONSTRUCTION FOR DEMOLITION OF THE WHARF STREET SHED AND SUBSEQUENT SITEWORK IMPROVEMENTS INCLUDE YARD, ROADWAY, UTILITIES, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN			300		
		CONSTRUCTION			2,700		
		TOTAL FUNDING	TRN		3,000B		B
47.		KAHULUI HARBOR IMPROVEMENTS, MAUI					
		DESIGN AND CONSTRUCTION OF A PERMANENT COMFORT STATION FOR HARBOR WORKERS.					
		DESIGN			75		
		CONSTRUCTION					500
		TOTAL FUNDING	TRN		75B		500B
<b>TRN361 - NAWILIWILI HARBOR</b>							
48.		NAWILIWILI HARBOR, OFFICE BUILDING, KAUAI					
		DESIGN AND CONSTRUCTION FOR DEVELOPMENT OF A MODULE FOR OFFICE SPACE FOR THE SMALL BOAT HARBOR THE HARBOR AGENT.					
		DESIGN			20		
		CONSTRUCTION			182		
		TOTAL FUNDING	TRN		202B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>TRN363 - PORT ALLEN HARBOR</b>							
49. K05		NAVIGATIONAL IMPROVEMENTS, PORT ALLEN HARBOR, KAUAI					
		PLANS FOR DEEPENING, WIDENING, AND OTHER IMPROVEMENTS TO THE NAVIGATIONAL AREAS AT PORT ALLEN HARBOR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS			500		
		TOTAL FUNDING	TRN		500B		B
<b>TRN395 - HARBORS ADMINISTRATION</b>							
50. I00		HARBORS DIVISION CAPITAL IMPROVEMENTS PROGRAM STAFF COSTS, STATEWIDE					
		PLANS FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S HARBORS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS.					
		PLANS			1,258		1,308
		TOTAL FUNDING	TRN		1,258B		1,308B
51. I01		HARBOR PLANNING, STATEWIDE					
		PLANS FOR CONTINUING HARBOR STUDIES, RESEARCH, AND ADVANCE PLANNING OF HARBOR AND TERMINAL FACILITIES ON ALL ISLANDS.					
		PLANS			850		250
		TOTAL FUNDING	TRN		850B		250B
52. I05		MISCELLANEOUS IMPROVEMENTS TO PORT FACILITIES, OAHU					
		CONSTRUCTION FOR IMPROVEMENTS TO YARD AREAS, SHEDS, PIERS, UTILITIES, WATER AREAS, MARITIME-INDUSTRIAL FACILITIES, AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION			400		400
		TOTAL FUNDING	TRN		400B		400B
53. I06		ARCHITECTURAL AND ENGINEERING SUPPORT, STATEWIDE					
		DESIGN FOR CONSULTANT SERVICES DURING THE DESIGN OF CAPITAL PROJECTS AT HARBOR FACILITIES STATEWIDE.					
		DESIGN			750		
		TOTAL FUNDING	TRN		750B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
54.	I07	ENVIRONMENTAL REMEDIATION OF COMMERCIAL HARBOR FACILITIES, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR STUDIES AND ENVIRONMENTAL REMEDIATION MEASURES AT COMMERCIAL HARBOR FACILITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS		250		200	
		DESIGN		300		400	
		CONSTRUCTION		700		1,400	
		TOTAL FUNDING	TRN	1,250B		2,000B	
55.	I08	REPLACEMENT OF TIMBER FENDERS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE REPLACEMENT OF TIMBER FENDER SYSTEMS WITH CONCRETE SYSTEMS AT COMMERCIAL HARBORS STATEWIDE.					
		DESIGN		150			
		CONSTRUCTION				2,000	
		TOTAL FUNDING	TRN	150B		2,000B	
56.	I13	CONSTRUCTION MANAGEMENT SUPPORT, STATEWIDE					
		CONSTRUCTION FOR CONSULTANT SERVICES DURING CONSTRUCTION PROJECTS AT HARBOR FACILITIES.					
		CONSTRUCTION		1,000			
		TOTAL FUNDING	TRN	1,000B			B
<b>TRN501 - OAHU HIGHWAYS</b>							
57.	S239	FREEWAY MANAGEMENT SYSTEM, OAHU					
		DESIGN FOR A FREEWAY MANAGEMENT SYSTEM, INCLUDING INTELLIGENT TRANSPORTATION SYSTEMS TECHNOLOGIES AND INTERAGENCY COORDINATION TO MONITOR AND MANAGE TRAFFIC OPERATIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		750			
		TOTAL FUNDING	TRN	150E			E
			TRN	600N			N
58.	S246	INTERSTATE ROUTE H-1, WESTBOUND AFTERNOON (PM) ZIPPERLANE, OAHU					
		DESIGN FOR AN AFTERNOON (PM) CONTRAFLOW LANE ON INTERSTATE ROUTE H-1 FROM THE VICINITY OF AIRPORT INTERCHANGE TO THE WAIAWA INTERCHANGE.					
		DESIGN		5,000			
		TOTAL FUNDING	TRN	5,000E			E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
59.	S257	CASCADE HILLS ACCESS ROAD, DRAINAGE IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR STORM RETENTION STRUCTURES AND EROSION CONTROLS TO REPAIR STORM DAMAGE AND EROSION, AND CONSTRUCTING CONCRETE SIDEWALKS, WHEELCHAIR RAMPS, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		5,000			
		TOTAL FUNDING	TRN	1,000E			E
			TRN	4,000N			N
60.	S270	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAYS FACILITIES, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION INCLUDING ELIMINATING CONSTRICTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS FOR MORE EFFICIENT TRAFFIC FLOW.					
		PLANS		200			
		DESIGN		200			200
		CONSTRUCTION		1,000			1,000
		TOTAL FUNDING	TRN	1,400E			1,200E
61.	S273	KAMEHAMEHA HIGHWAY, INTERSECTION IMPROVEMENTS AT KUILIMA DRIVE, OAHU					
		LAND ACQUISITION FOR A LEFT TURN LANE ON KAMEHAMEHA HIGHWAY INTO KUILIMA DRIVE, REPLACING O'IO STREAM BRIDGE, AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND		350			
		TOTAL FUNDING	TRN	350X			X
62.	S276	KALANIANAOLE HIGHWAY IMPROVEMENTS, RETAINING WALL AT MAKAPUU, OAHU					
		CONSTRUCTION FOR CONSTRUCTING AND/OR REPAIRING A RETAINING WALL ALONG KALANIANAOLE HIGHWAY IN THE VICINITY OF MAKAPUU POINT, INCLUDING SUBSURFACE INVESTIGATION AND SLOPE PROTECTION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		8,000			
		TOTAL FUNDING	TRN	1,600E			E
			TRN	6,400N			N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
63. S299		KAMEHAMEHA HIGHWAY, NORTH KAHANA STREAM BRIDGE REPLACEMENT, OAHU					
		CONSTRUCTION FOR REPLACEMENT OF NORTH KAHANA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		5,000			
		TOTAL FUNDING	TRN	1,000E			E
			TRN	4,000N			N
64. S308		KAMEHAMEHA HIGHWAY IMPROVEMENTS, WAIPAHAU STREET TO KA UKA BOULEVARD, OAHU					
		LAND ACQUISITION AND CONSTRUCTION FOR TRAFFIC OPERATIONAL AND OTHER IMPROVEMENTS INCLUDING SIDEWALK, BIKEWAY, HIGHWAY LIGHTING, DRAINAGE, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND		150			
		CONSTRUCTION					5,000
		TOTAL FUNDING	TRN		E		1,000E
			TRN		N		4,000N
			TRN	150X			X
65. S310		FORT BARRETTE ROAD WIDENING, FARRINGTON HIGHWAY TO BARBERS POINT GATE, OAHU					
		LAND ACQUISITION AND CONSTRUCTION FOR WIDENING THE EXISTING ROADWAY TO FOUR LANES INCLUDING RIGHT AND LEFT TURNING LANES, SIDEWALKS, BIKEWAYS, HIGHWAY LIGHTING, DRAINAGE IMPROVEMENTS, TRAFFIC SIGNALS, LANDSCAPING, AND OTHER IMPROVEMENTS. (SPECIAL FUNDS FROM HIGHWAYS DEVELOPMENT SPECIAL FUNDS) THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND		200			
		CONSTRUCTION					20,000
		TOTAL FUNDING	TRN		B		5,400B
			TRN		E		600E
			TRN		N		14,000N
			TRN	200X			X
66. S327		DRYING BED FACILITIES, OAHU					
		CONSTRUCTION OF DRYING BED FACILITIES FOR THE PROCESSING AND DISPOSAL OF HIGHWAY DEBRIS COLLECTED BY MAINTENANCE OPERATIONS.					
		CONSTRUCTION		6,000			
		TOTAL FUNDING	TRN	6,000E			E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)				
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F	
67.	S328	KAMEHAMEHA HIGHWAY, REHABILITATION OF MAKAU A STREAM BRIDGE, OAHU						
		LAND ACQUISITION FOR THE REHABILITATION OF MAKAU A STREAM BRIDGE TO INCLUDE BRIDGE RAILINGS, SHOULDERS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.						
		LAND					225	
		TOTAL FUNDING	TRN		E		45E	
			TRN		N		180N	
68.	S330	KAMEHAMEHA HIGHWAY, REHABILITATION OF KAWAIILOA STREAM BRIDGE, OAHU						
		LAND ACQUISITION FOR THE REHABILITATION OF KAWAIILOA STREAM BRIDGE TO INCLUDE BRIDGE RAILINGS, SHOULDERS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.						
		LAND					475	
		TOTAL FUNDING	TRN		E		95E	
			TRN		N		380N	
69.	S333	ENVIRONMENTAL REMEDIATION OF HIGHWAY FACILITIES, OAHU						
		PLANS, DESIGN, AND CONSTRUCTION FOR ENVIRONMENTAL REMEDIATION MEASURES ON STATE HIGHWAYS AND FACILITIES.						
		PLANS				248	248	
		DESIGN				1	1	
		CONSTRUCTION				1	1	
		TOTAL FUNDING	TRN			250B	250B	
70.	S334	VINEYARD BOULEVARD IMPROVEMENTS AT LUSITANA ST., VICINITY OF QUEEN'S MEDICAL CENTER, OAHU						
		DESIGN AND CONSTRUCTION OF A RIGHT TURN LANE FROM LUSITANA STREET ONTO VINEYARD BOULEVARD TO PROVIDE EASTBOUND FREEWAY ACCESS FROM THE QUEEN'S MEDICAL CENTER. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.						
		DESIGN				25		
		CONSTRUCTION				9,975		
		TOTAL FUNDING	TRN			1N	N	
			TRN			9,999R	R	
71.	S337	FARRINGTON HIGHWAY, REHABILITATION OF KAUPUNI STREAM BRIDGE, OAHU						
		DESIGN FOR THE REHABILITATION OF KAUPUNI STREAM BRIDGE TO WIDEN THE STRUCTURE AND/OR LENGTHENING IF REQUIRED, INCLUDING UPGRADE OF BRIDGE RAILINGS AND APPROACHES, CONSTRUCTION OF A DETOUR ROAD, AND INSTALLATION OF OTHER						

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		1,200			
		TOTAL FUNDING	TRN	240E			E
			TRN	960N			N
72.	S338	EAST-WEST COLLECTOR ROAD, KAPOLEI, OAHU					
		DESIGN AND CONSTRUCTION OF A FOUR-LANE COLLECTOR ROAD SOUTH OF FARRINGTON HIGHWAY IN THE VICINITY OF THE UNIVERSITY OF HAWAII WEST OAHU CAMPUS IN KAPOLEI, OAHU. INTERDEPARTMENTAL TRANSFER FUNDS FROM THE DEPARTMENT OF HAWAIIAN HOME LANDS.					
		DESIGN		1,725			
		CONSTRUCTION		15,500			
		TOTAL FUNDING	TRN	17,225U			U
73.	SP9101	NORTH/SOUTH ROAD, KAPOLEI PARKWAY TO VICINITY OF INTERSTATE ROUTE H-1, OAHU					
		CONSTRUCTION FOR NORTH/SOUTH ROAD FROM KAPOLEI PARKWAY TO VICINITY OF THE H-1 FREEWAY. IMPROVEMENTS INCLUDE A MULTI-LANE HIGHWAY AND AN INTERCHANGE AT THE H-1 FREEWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		55,000			
		TOTAL FUNDING	TRN	11,000E			E
			TRN	44,000N			N
74.		KAMEHAMEHA HIGHWAY, REALIGNMENT AT LANIAKEA BEACH ROAD, OAHU					
		PLANS FOR THE REALIGNMENT OF KAMEHAMEHA HIGHWAY ALONG THE AREAS OF LANIAKEA BEACH AND CHUN'S REEF.					
		PLANS		1,200			
		TOTAL FUNDING	TRN	1,200C			C
75.		KAHEKILI HIGHWAY, OAHU					
		PLANS FOR HIGHWAY WIDENING AND OTHER IMPROVEMENTS TO ACCOMMODATE A CONTRAFLOW LANE FROM THE VICINITY OF HAIKU ROAD TO HUI IWA STREET.					
		PLANS		1,000			
		TOTAL FUNDING	TRN	1,000E			E

TRN511 - HAWAII HIGHWAYS

76. T007 HAWAII BELT ROAD, MUD LANE TO THE KAMUELA RACE TRACK, HAWAII

DESIGN FOR WIDENING AND/OR REALIGNING OF HIGHWAY BETWEEN MUD LANE AND KAMUELA RACE TRACK IN SOUTH KOHALA, HAWAII. THIS

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		1,750			
		TOTAL FUNDING	TRN	350E			E
			TRN	1,400N			N
77.	T077	GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, HAWAII					
		DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING EXISTING GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILING, BRIDGE END POSTS AND CRASH ATTENUATOR, AND RECONSTRUCTING AND PAVING SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		100			100
		CONSTRUCTION		1,400			1,400
		TOTAL FUNDING	TRN	300E			300E
			TRN	1,200N			1,200N
78.	T080	KAWAIHAE ROAD, WAIAKA STREAM BRIDGE REPLACEMENT AND REALIGNMENT, HAWAII					
		DESIGN FOR REPLACING THE EXISTING WAIAKA STREAM BRIDGE, REALIGNING THE BRIDGE APPROACHES, RECONSTRUCTING THE ROUTE 19/ ROUTE 250 INTERSECTION, AND INSTALLING SAFETY IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		1,000			
		TOTAL FUNDING	TRN	200E			E
			TRN	800N			N
79.	T082	QUEEN KAAHUMANU HIGHWAY WIDENING, HAWAII					
		CONSTRUCTION FOR THE WIDENING OF QUEEN KAAHUMANU HIGHWAY TO A FOUR-LANE DIVIDED HIGHWAY FROM VICINITY OF KEALAKEHE PARKWAY TO THE VICINITY OF KEAHOLE AIRPORT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		35,000			
		TOTAL FUNDING	TRN	7,000E			E
			TRN	28,000N			N
80.	T085	KEALAKEHE PARKWAY EXTENSION, VICINITY OF KEANALEHU DRIVE TO KEALAKAA STREET, HAWAII					
		LAND ACQUISITION AND CONSTRUCTION FOR THE EXTENSION OF KEALAKEHE PARKWAY FROM KEANALEHU DRIVE TO KEALAKAA STREET. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND		1,000			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)				
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F	
		CONSTRUCTION					5,000	
		TOTAL FUNDING		200E			1,000E	
			TRN	800N			4,000N	
81.	T118	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES, HAWAII						
		PLANS, DESIGN, AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION, INCLUDING ELIMINATING CONSTRUCTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS.						
		PLANS		100				
		DESIGN		100			150	
		CONSTRUCTION					950	
		TOTAL FUNDING	TRN	200E			1,100E	
82.	T125	AKONI PULE HIGHWAY, REALIGNMENT AND WIDENING AT AAMAKOA GULCH, HAWAII						
		LAND ACQUISITION FOR REALIGNMENT AND WIDENING OF AKONI PULE HIGHWAY ON THE POLOLU VALLEY SIDE OF AAMAKOA GULCH, INCLUDING INSTALLING GUARDRAILS AND SIGNS.						
		LAND		250				
		TOTAL FUNDING	TRN	250E			E	
83.	T132	VOLCANO ROAD INTERSECTION IMPROVEMENTS AT KULANI ROAD, HAWAII						
		CONSTRUCTION FOR LEFT TURN LANES AT THE KULANI ROAD INTERSECTION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.						
		CONSTRUCTION					3,000	
		TOTAL FUNDING	TRN		E		600E	
			TRN		N		2,400N	
84.	T133	VOLCANO ROAD DRAINAGE IMPROVEMENTS, KULANI ROAD TO MOUNTAIN VIEW SCHOOL, HAWAII						
		CONSTRUCTION FOR DRAINAGE IMPROVEMENTS, INCLUDING INSTALLING A CONCRETE-LINED DITCH WITH GRATING, AN ASPHALT-LINED DITCH, GUARDRAILS, CULVERTS, AND FENCING. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.						
		CONSTRUCTION					2,500	
		TOTAL FUNDING	TRN		E		500E	
			TRN		N		2,000N	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
85.	T135	MAMALAHOA HIGHWAY DRAINAGE IMPROVEMENTS AT KAWA, HAWAII					
		LAND ACQUISITION AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS, INCLUDING THE INSTALLATION OF DRAINAGE BOX CULVERTS AND RAISING OF THE ROADWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND			200		
		CONSTRUCTION			5,000		
		TOTAL FUNDING	TRN		1,000E		E
			TRN		4,000N		N
			TRN		200X		X
86.	T136	HAWAII BELT ROAD DRAINAGE IMPROVEMENTS, VICINITY OF HAKALAU BRIDGE, HAWAII					
		LAND ACQUISITION AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS, INCLUDING INSTALLING A DRAINAGE SPILLWAY AND BOX CULVERTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND			75		
		CONSTRUCTION			2,000		
		TOTAL FUNDING	TRN		400E		E
			TRN		1,600N		N
			TRN		75X		X
87.	T138	KANOELEHUA AVENUE, INBOUND WIDENING, KAMEHAMEHA AVENUE TO PUAINAKO STREET, HAWAII					
		DESIGN FOR THE WIDENING OF KANOELEHUA AVENUE NORTHBOUND FROM PUAINAKO STREET TO KAMEHAMEHA AVENUE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			850		
		TOTAL FUNDING	TRN		170E		E
			TRN		680N		N
88.	T139	SADDLE ROAD MAINTENANCE BASEYARD, VICINITY OF MAUNA KEA STATE PARK, HAWAII					
		DESIGN FOR A ROAD MAINTENANCE FACILITY THAT INCLUDES MAINTENANCE AND OFFICE STRUCTURES, SITE IMPROVEMENTS, LAND ACQUISITION, STORAGE FACILITIES, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN			600		
		TOTAL FUNDING	TRN		600E		E
89.		HAWAII BELT ROAD (ROUTE 19) AND PAPAIKOU MILL ROAD INTERSECTION, HAWAII					
		DESIGN AND CONSTRUCTION FOR INSTALLATION OF TRAFFIC SIGNAL SYSTEM AT HAWAII BELT					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		ROAD (ROUTE 19) AND PAPAIKOU MILL ROAD INTERSECTION.					
		DESIGN			40		
		CONSTRUCTION			360		
		TOTAL FUNDING	TRN		400B		B
90.	T140	HAWAII BELT ROAD, REPLACEMENT OF KAWAILII BRIDGE, HAWAII					
		CONSTRUCTION FOR THE REPLACEMENT OF THE BRIDGE STRUCTURE ON THE HAWAII BELT ROAD INCLUDING IMPROVEMENTS TO THE ROADWAY APPROACHES, SEISMIC UPGRADES, UTILITIES RELOCATION, AND REMOVAL OF A TEMPORARY DETOUR ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION			6,000		
		TOTAL FUNDING	TRN		1,200E		E
			TRN		4,800N		N
<b>TRN531 - MAUI HIGHWAYS</b>							
91.	V048	GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, MAUI					
		DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING EXISTING GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILINGS, BRIDGE ENDPOSTS AND CRASH ATTENUATORS, AND RECONSTRUCTING AND PAVING SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			250		
		CONSTRUCTION					1,000
		TOTAL FUNDING	TRN		50E		200E
			TRN		200N		800N
92.	V051	HONOAPIILANI HIGHWAY WIDENING AND/OR REALIGNMENT, HONOKOWAI TO LAUNIUPOKO, MAUI					
		LAND ACQUISITION AND CONSTRUCTION FOR A NEW ALIGNMENT OF HONOAPIILANI HIGHWAY FROM LAHAINALUNA ROAD TO THE VICINITY OF LAUNIUPOKO. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND			4,000		
		CONSTRUCTION					42,000
		TOTAL FUNDING	TRN		800E		8,400E
			TRN		3,200N		33,600N
93.	V075	HANA HIGHWAY ROCKFALL MITIGATION, HUELO TO HANA, MAUI					
		DESIGN TO MITIGATE ROCKFALLS AND POTENTIAL LANDSLIDE AREAS ALONG THE SLOPES OF ROUTE 360 HANA HIGHWAY FROM THE VICINITY OF MILE POST 11.3 TO MILE POST 12.8.					
		DESIGN			400		
		TOTAL FUNDING	TRN		400E		E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
94.	V083	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES, MAUI					
		PLANS, DESIGN, AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION, INCLUDING ELIMINATING CONSTRUCTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS.					
		PLANS			100		
		DESIGN			100		100
		CONSTRUCTION					800
		TOTAL FUNDING	TRN		200E		900E
95.	V084	HANA HIGHWAY IMPROVEMENTS, HUELO TO HANA, MAUI					
		DESIGN FOR IMPROVING, UPGRADING, AND/OR REPAIRING ROADWAYS, BRIDGES, WALLS, DRAINAGE STRUCTURES, GUARDRAILS, AND OTHER FACILITIES ON ROUTE 360 HANA HIGHWAY.					
		DESIGN					275
		TOTAL FUNDING	TRN			E	275E
96.	V093	WAIIEHU BEACH ROAD, REHABILITATION OF IAO STREAM BRIDGE, MAUI					
		CONSTRUCTION FOR REHABILITATION OF A CONCRETE TEE-BEAM BRIDGE ON WAIIEHU BEACH ROAD IN THE VICINITY OF WAILUKU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION					6,500
		TOTAL FUNDING	TRN			E	1,300E
			TRN			N	5,200N
97.	V095	HALEAKALA HIGHWAY WIDENING AT MILEPOST 0.8, MAUI					
		LAND ACQUISITION AND DESIGN FOR WIDENING THE HIGHWAY FROM ONE LANE TO TWO LANES, EXTENDING A BOX CULVERT, AND CONSTRUCTING HEADWALLS AND WING WALLS.					
		LAND					40
		DESIGN			150		
		TOTAL FUNDING	TRN		150E		40E
98.	V096	HANA HIGHWAY WIDENING, KAAHUMANU AVENUE TO VICINITY OF AIRPORT ACCESS ROAD, MAUI					
		LAND ACQUISITION AND DESIGN FOR THE WIDENING OF HANA HIGHWAY FROM KAAHUMANU AVENUE TO THE VICINITY OF AIRPORT ACCESS ROAD FROM FOUR TO SIX LANES. THIS PROJECT IS DEEMED NECESSARY					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					100
		LAND DESIGN			300		
		TOTAL FUNDING	TRN		60E		20E
			TRN		240N		80N
99.	V097	PUUNENE AVENUE WIDENING, WAKEA AVENUE TO KUIHELANI HIGHWAY, MAUI					
		LAND ACQUISITION AND DESIGN FOR THE WIDENING OF PUUNENE AVENUE FROM WAKEA AVENUE TO KUIHELANI HIGHWAY FROM TWO TO FOUR LANES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND DESIGN			500		25
		TOTAL FUNDING	TRN		100E		5E
			TRN		400N		20N
100.	VP0104	HONOAPIILANI HIGHWAY WIDENING, LAHAINALUNA ROAD TO SOUTH OF FRONT STREET, MAUI					
		CONSTRUCTION FOR THE WIDENING OF HONOAPIILANI HIGHWAY FROM TWO TO FOUR LANES FROM THE VICINITY OF LAHAINALUNA ROAD TO AHOLO ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION			6,000		
		TOTAL FUNDING	TRN		1,200E		E
			TRN		4,800N		N
<b>TRN541 - MOLOKAI HIGHWAYS</b>							
101.	W011	KAMEHAMEHA V HIGHWAY, KAWELA STREAM BRIDGE REPLACEMENT, MOLOKAI					
		CONSTRUCTION FOR REPLACEMENT OF KAWELA STREAM BRIDGE TO INCLUDE SIDEWALKS AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION			3,500		
		TOTAL FUNDING	TRN		700E		E
			TRN		2,800N		N
102.	W012	MAUNALOA HIGHWAY SLOPE STABILIZATION AT MP 13 AND MP 14.3, MOLOKAI					
		CONSTRUCTION FOR THE STABILIZATION OF THE EMBANKMENT AT MILE POST 13 AND MILE POST 14.3 ON MAUNALOA HIGHWAY.					
		CONSTRUCTION			1,750		
		TOTAL FUNDING	TRN		1,750E		E

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
103.	W014	KAMEHAMEHA V HIGHWAY, DRAINAGE IMPROVEMENTS, VICINITY OF MILE POST 12.5, MOLOKAI					
		CONSTRUCTION TO UPGRADE THE EXISTING CULVERT, OTHER DRAINAGE FACILITIES, SHOULDERS, AND OTHER IMPROVEMENTS IN THE VICINITY OF MILE POST 12.5.					
			CONSTRUCTION			450	
			TOTAL FUNDING	TRN		450E	E
<b>TRN561 - KAUAI HIGHWAYS</b>							
104.	X051	GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, KAUAI					
		DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING OF GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILINGS, BRIDGE ENDPPOSTS AND CRASH ATTENUATORS; AND RECONSTRUCTING AND PAVING SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
			DESIGN			100	
			CONSTRUCTION			900	
			TOTAL FUNDING	TRN		200E	E
				TRN		800N	N
105.	X100	KUHIO HIGHWAY, RETAINING WALLS AT LUMAHAI AND WAINIHA, KAUAI					
		LAND ACQUISITION AND CONSTRUCTION FOR RETAINING WALLS TO PREVENT SLIPPAGE AND EROSION OF THE ROADWAY.					
			LAND			100	
			CONSTRUCTION				4,000
			TOTAL FUNDING	TRN		100E	4,000E
106.	X112	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAYS, KAUAI					
		PLANS, DESIGN, AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION, INCLUDING ELIMINATING CONSTRICTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS.					
			PLANS			100	
			DESIGN			100	200
			CONSTRUCTION			1,000	800
			TOTAL FUNDING	TRN		1,200E	1,000E

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
107.	X120	KAUMUALII HIGHWAY, KUHIO HIGHWAY, AND KUAMOO ROAD RETAINING WALLS, KAUAI					
		CONSTRUCTION FOR CONSTRUCTING AND/OR RECONSTRUCTING RETAINING WALLS AND OTHER APPURTENANT IMPROVEMENTS AT VARIOUS LOCATIONS.					
		CONSTRUCTION		1,500			
		TOTAL FUNDING	TRN	1,500E			E
108.	X122	KUHIO HIGHWAY, ROUTE 560, SLOPE PROTECTION, HANAIEI HILL, KAUAI					
		LAND ACQUISITION FOR THE CONSTRUCTION OF SLOPE STABILIZATION IMPROVEMENTS AND PROTECTION MEASURES.					
		LAND		100			
		TOTAL FUNDING	TRN	100E			E
109.	X123	WAIMEA CANYON DRIVE/KOKEE ROAD IMPROVEMENTS, MILE POST 0 TO MILE POST 14, KAUAI					
		CONSTRUCTION FOR PAVED SHOULDERS, INSTALLING GUARDRAILS, PAVEMENT MARKINGS AND SIGNS, AND OTHER IMPROVEMENTS IN THE VICINITY OF MILE POST 0 TO MILE POST 14.					
		CONSTRUCTION		2,000			
		TOTAL FUNDING	TRN	2,000E			E
110.	X130	KUHIO HIGHWAY, MAILIHUNA ROAD INTERS. IMP. AND KAPAA STREAM BRIDGE REHABILITATION, KAUAI					
		DESIGN FOR THE CONSTRUCTION OF INTERSECTION SAFETY IMPROVEMENTS AND REHABILITATION OF KAPAA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN					1,000
		TOTAL FUNDING	TRN		E		200E
			TRN		N		800N
111.	X007	KUHIO HIGHWAY IMPROVEMENTS, HANAMAULU TO KAPAA, KAUAI					
		CONSTRUCTION FOR A NEW KAPAA BYPASS AND/OR WIDEN SECTIONS OF KUHIO HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		8,000			
		TOTAL FUNDING	TRN	1,600E			E
			TRN	6,400N			N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>TRN595 - HIGHWAYS ADMINISTRATION</b>							
112.	X091	PEDESTRIAN FACILITIES AND ADA COMPLIANCE AT VARIOUS LOCATIONS, STATEWIDE					
		CONSTRUCTION FOR CONSTRUCTING PEDESTRIAN FACILITIES AND INSTALLING AND/OR UPGRADING CURB RAMPS AND BUS STOPS ON STATE HIGHWAYS AND UPGRADING THE HIGHWAYS DIVISION BUILDING FACILITIES TO MEET COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/ OR REIMBURSEMENT.					
		CONSTRUCTION					1,500
		TOTAL FUNDING	TRN		E		300E
			TRN		N		1,200N
113.	X096	CLOSE-OUT OF HIGHWAY RIGHTS-OF-WAY, STATEWIDE					
		LAND ACQUISITION FOR COMPLETION OF ACQUISITION OF OUTSTANDING RIGHT-OF-WAY PARCELS ON PREVIOUSLY CONSTRUCTED PROJECTS OR PROJECTS WITH NECESSARY MITIGATIVE RESPONSES. ALSO, TO PROVIDE FOR THE TRANSFER OF REAL ESTATE INTERESTS FROM THE STATE TO THE COUNTIES FOR THE IMPLEMENTATION OF THE STATE HIGHWAY SYSTEM.					
		LAND				300	300
		TOTAL FUNDING	TRN		300E		300E
114.	X097	MISCELLANEOUS DRAINAGE IMPROVEMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS TO EXISTING HIGHWAY FACILITIES INCLUDING INSTALLATION OF DRAINAGE FACILITIES, CATCH BASINS, GRATED DROP INLETS, LINED SWALES, HEADWALLS, AND CULVERTS AT VARIOUS LOCATIONS.					
		DESIGN				100	100
		CONSTRUCTION				1,250	1,250
		TOTAL FUNDING	TRN		1,350E		1,350E
115.	X098	IMPROVEMENTS TO INTERSECTIONS AND HIGHWAY FACILITIES, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR TRAFFIC SAFETY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN				250	250
		CONSTRUCTION				2,000	2,000
		TOTAL FUNDING	TRN		450E		450E
			TRN		1,800N		1,800N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
116.	X099	HIGHWAY PLANNING, STATEWIDE					
		PLANS FOR ROAD USE, ROAD LIFE, ECONOMIC STUDIES, RESEARCH, ADVANCE PLANNING AND SCOPING OF FEDERAL AID AND NON FEDERAL AID HIGHWAY PROJECTS AND PROGRAMS, AND STUDIES REQUIRED BY THE FEDERAL HIGHWAYS ADMINISTRATION (FHWA). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS		4,375		4,375	
		TOTAL FUNDING	TRN	875E		875E	
			TRN	3,500N		3,500N	
117.	X221	TRAFFIC SIGNAL MODERNIZATION AT VARIOUS LOCATIONS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR REPLACING EXISTING TRAFFIC SIGNAL SYSTEMS; PROVIDING INTERCONNECTION OF SIGNALIZED INTERSECTIONS; UPGRADING EXISTING TRAFFIC SIGNAL SYSTEMS TO MEET CURRENT AMERICANS WITH DISABILITIES (ADA) STANDARDS; AND INSTALLING CLOSE CIRCUIT TELEVISION FOR THE FREEWAY MANAGEMENT SYSTEM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		300		300	
		CONSTRUCTION		1,200		1,200	
		TOTAL FUNDING	TRN	300E		300E	
			TRN	1,200N		1,200N	
118.	X222	SEISMIC RETROFIT OF VARIOUS BRIDGES, STATEWIDE					
		CONSTRUCTION FOR SEISMIC RETROFIT IMPROVEMENTS FOR VARIOUS BRIDGES STATEWIDE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION				7,500	
		TOTAL FUNDING	TRN		E	1,500E	
			TRN		N	6,000N	
119.	X224	HIGHWAY SHORELINE PROTECTION, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR SHORELINE PROTECTION IMPROVEMENTS OF EXISTING STATE HIGHWAY FACILITIES, INCLUDING SHORELINE PROTECTION STRUCTURES, RELOCATION AND REALIGNMENT OF THE HIGHWAY AND BEACH FILL/NOURISHMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		500			
		CONSTRUCTION				6,500	
		TOTAL FUNDING	TRN	100E		1,300E	
			TRN	400N		5,200N	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
120.	X225	HIGHWAYS DIVISION CAPITAL IMPROVEMENTS PROGRAM PROJECTS STAFF COSTS, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR DEPARTMENT OF TRANSPORTATION'S HIGHWAYS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM PROJECTS RELATED POSITIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS			1		1
		LAND			1		1
		DESIGN			1		1
		CONSTRUCTION			23,997		23,997
		TOTAL FUNDING	TRN		18,000B		18,000B
			TRN		6,000N		6,000N
121.	X226	CLOSEOUT OF HIGHWAY CONSTRUCTION PROJECTS, STATEWIDE					
		CONSTRUCTION FOR COMPLETION OF OUTSTANDING CONSTRUCTION PROJECTS FOR POSTING OF AS-BUILT PLANS, OUTSTANDING UTILITY BILLINGS, AND PAYMENTS TO OTHERS FOR PROJECT RELATED WORK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION			200		200
		TOTAL FUNDING	TRN		199E		199E
			TRN		1N		1N
122.	X227	ROCKFALL PROTECTION/SLOPE STABILIZATION AT VARIOUS LOCATIONS, STATEWIDE					
		LAND ACQUISITION FOR ROCKFALL/SLOPE PROTECTION AND SLOPE STABILIZATION MITIGATION MEASURES AT VARIOUS LOCATIONS STATEWIDE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND					1,000
		TOTAL FUNDING	TRN		E		200E
			TRN		N		800N
123.	X230	BIKEWAY IMPROVEMENTS AT VARIOUS LOCATIONS, STATEWIDE					
		CONSTRUCTION TO PROVIDE AND IMPROVE BICYCLE FACILITIES ON STATE HIGHWAYS. THE FEDERAL LEGISLATION TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY (TEA-21) PROVIDES FOR IMPROVING CONDITIONS AND SAFETY FOR THE BICYCLING MODE OF TRAVEL. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		CONSTRUCTION					1,000
		TOTAL FUNDING	TRN		E		200E
			TRN		N		800N
124.	X231	HIGHWAYS DIVISION MATERIALS TESTING AND RESEARCH FACILITY RENOVATION, STATEWIDE					
		CONSTRUCTION FOR THE RENOVATION AND IMPROVEMENTS TO THE HIGHWAYS DIVISION MATERIALS TESTING AND RESEARCH FACILITY.					
		CONSTRUCTION		2,500			
		TOTAL FUNDING	TRN	2,500E			E
125.	X235	MOTOR CARRIER SAFETY AND HIGHWAY SAFETY OFFICE FACILITY, STATEWIDE					
		DESIGN AND CONSTRUCTION TO RENOVATE AND REFURBISH EXISTING BUILDING STRUCTURES AND INSTALL MISCELLANEOUS SITE IMPROVEMENTS UNDER THE WAIMALU VIADUCT.					
		DESIGN		75			
		CONSTRUCTION		500			
		TOTAL FUNDING	TRN	575B			B
126.	X236	SUSTAINABLE HIGHWAY LANDSCAPE MASTER PLAN, STATEWIDE					
		PLANS TO DEVELOP A SUSTAINABLE LANDSCAPE MASTER PLAN. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS		751			
		TOTAL FUNDING	TRN	750E			E
			TRN	1N			N

D. ENVIRONMENTAL PROTECTION

HTH840 - ENVIRONMENTAL MANAGEMENT

1. WASTEWATER TREATMENT REVOLVING FUND FOR POLLUTION CONTROL, STATEWIDE

CONSTRUCTION FUNDS TO MATCH FEDERAL CAPITALIZATION GRANTS FOR WASTEWATER PROJECTS. FUNDS APPROPRIATED TO BE TRANSFERRED TO THE WATER POLLUTION CONTROL REVOLVING FUND ESTABLISHED PURSUANT TO CHAPTER 342-D, HRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CONSTRUCTION		5,969		5,969
TOTAL FUNDING	HTH	995C		995C
	HTH	4,974N		4,974N

2. SAFE DRINKING WATER REVOLVING FUND, STATEWIDE

CONSTRUCTION FOR FUNDS TO MATCH FEDERAL CAPITALIZATION GRANTS TO COMPLY WITH THE SAFE DRINKING WATER ACT. THIS PROJECT IS

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		10,024		10,024	
		TOTAL FUNDING	HTH	1,671	C	1,671	C
			HTH	8,353	N	8,353	N

LNR402 - NATIVE RESOURCES AND FIRE PROTECTION PROGRAM

3. D00A DIVISION OF FORESTRY AND WILDLIFE (DOFAW) BASEYARD IMPROVEMENTS, STATEWIDE

PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR BASEYARD IMPROVEMENTS ON OAHU AND HILO.

PLANS		40	
DESIGN		110	
CONSTRUCTION		340	460
EQUIPMENT		10	40
TOTAL FUNDING	LNR	500	500

LNR906 - LNR - NATURAL AND PHYSICAL ENVIRONMENT

4. G01 CAPITAL IMPROVEMENTS PROGRAM STAFF COSTS, STATEWIDE

PLANS FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF LAND AND NATURAL RESOURCES. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS.

PLANS		2,530	2,688
TOTAL FUNDING	LNR	2,530	2,688

5. J00 ADA PUBLIC ACCESSIBILITY AT DEPARTMENT OF LAND AND NATURAL RESOURCES (DLNR) FACILITIES, STATEWIDE

DESIGN, CONSTRUCTION, AND EQUIPMENT TO PROVIDE PUBLIC ACCESSIBILITY AT DLNR FACILITIES.

DESIGN		520	
CONSTRUCTION		2,130	1,000
EQUIPMENT		50	
TOTAL FUNDING	LNR	2,700	1,000

E. HEALTH

HTH100 - COMMUNICABLE DISEASE SERVICES

1. KALAUPAPA SETTLEMENT, HARBOR IMPROVEMENTS, MOLOKAI

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO KALAUPAPA HARBOR AND SURROUNDING ELEMENTS.

DESIGN		1	
CONSTRUCTION		998	
EQUIPMENT		1	
TOTAL FUNDING	AGS	1,000	C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
2.		KALAUPAPA SETTLEMENT, VARIOUS IMPROVEMENTS TO THE NURSING FACILITY, MOLOKAI					
		DESIGN AND CONSTRUCTION FOR VARIOUS IMPROVEMENTS TO THE NURSING FACILITIES INCLUDING NEW EMERGENCY GENERATOR WITH WIRING, FIRE SAFETY RETROFFITS, AND VARIOUS OTHER IMPROVEMENTS.					
		DESIGN			50		
		CONSTRUCTION			460		
		TOTAL FUNDING	AGS		510C		C
<b>HTH595 - HEALTH RESOURCES ADMINISTRATION</b>							
3.		WAIANAE COAST COMPREHENSIVE HEALTH CENTER, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE EXPANSION AND RENOVATION OF FACILITIES AT THE WAIANAE COAST COMPREHENSIVE HEALTH CENTER, PHASE II. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			998		
		TOTAL FUNDING	HTH		1,000C		C
4.		KOKUA KALIHI VALLEY, OAHU					
		PLANS AND CONSTRUCTION FOR RENOVATION OF THE P&P BUILDING AND INFRASTRUCTURE IMPROVEMENTS AT KALIHI VALLEY NATURE PARK. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		PLANS			40		
		CONSTRUCTION			2,160		
		TOTAL FUNDING	HTH		2,200C		C
5.		LANAI WOMEN'S CENTER, LANAI					
		PLANS AND CONSTRUCTION FOR THE LANAI COMMUNITY HEALTH CENTER FOR THE LOW INCOME, UNDERSERVED RESIDENTS OF THE ISLAND OF LANAI. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		PLANS			1		
		CONSTRUCTION			499		
		TOTAL FUNDING	HTH		500C		C
6.		HOSPICE OF HILO, HAWAII					
		CONSTRUCTION FOR PHASE I OF A MEDICARE CERTIFIED IN-PATIENT HOSPICE FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			1,000		
		TOTAL FUNDING	HTH		1,000C		C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
7.		MOLOKAI GENERAL HOSPITAL, MOLOKAI					
		CONSTRUCTION TO COMPLETE THE EXPANSION AND UPGRADE OF MOLOKAI GENERAL HOSPITAL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			1,700		
		TOTAL FUNDING	HTH		1,700C		C
8.		HAMAKUA HEALTH CENTER, INC., HAWAII					
		DESIGN AND CONSTRUCTION FOR EXPANSION OF THE HAMAKUA HEALTH CENTER. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN			1		
		CONSTRUCTION			249		
		TOTAL FUNDING	HTH		250C		C
9.		SHRINERS HOSPITALS FOR CHILDREN, HONOLULU, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE HOSPITAL FACILITIES. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN			1		
		CONSTRUCTION			249		
		TOTAL FUNDING	HTH		250C		C
10.		WAIMANALO HEALTH CENTER, OAHU					
		DESIGN AND CONSTRUCTION FOR DEVELOPMENT OF DENTAL FACILITIES. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN			1		
		CONSTRUCTION			124		
		TOTAL FUNDING	HTH		125C		C
<b>HTH210 - HAWAII HEALTH SYSTEMS CORPORATION</b>							
11.		HAWAII HEALTH SYSTEMS CORPORATION, CORRECT HEALTH AND SAFETY DEFICIENCIES, STATEWIDE					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO CORRECT HEALTH AND LIFE SAFETY CODE DEFICIENCIES FOR ALL HAWAII HEALTH SYSTEM CORPORATION FACILITIES.					
		PLANS			1		
		DESIGN			4,000		
		CONSTRUCTION			15,998		
		EQUIPMENT			1		
		TOTAL FUNDING	HTH		20,000C		C
12.		HILO MEDICAL CENTER, HAWAII					
		DESIGN AND CONSTRUCTION TO EXPAND AND UPGRADE THE EXISTING CARDIOVASCULAR SUITE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		DESIGN			649		
		CONSTRUCTION			1		
		TOTAL FUNDING	HTH		650C		C
13.		LEAHI HOSPITAL MASTER PLAN, OAHU					
		PLANS FOR A MASTER PLAN FOR LEAHI HOSPITAL.					
		PLANS			80		
		TOTAL FUNDING	HTH		80C		C
14.		MAUI MEMORIAL MEDICAL CENTER GENERATORS, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TWO GENERATORS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			100		
		CONSTRUCTION			3,089		
		EQUIPMENT			1		
		TOTAL FUNDING	HTH		3,190C		C
<b>HTH430 - ADULT MENTAL HEALTH - INPATIENT</b>							
15.		HAWAII STATE HOSPITAL, REPAIRS AND IMPROVEMENTS TO VARIOUS BUILDINGS AND SITES, OAHU					
		DESIGN AND CONSTRUCTION FOR REPAIRS AND IMPROVEMENTS, WHICH MAY INCLUDE REROOFING, STRUCTURAL WORK, AND VARIOUS OTHER IMPROVEMENTS.					
		DESIGN			1		
		CONSTRUCTION			2,999		
		TOTAL FUNDING	AGS		3,000C		C
16.		WAIANAE COAST COMMUNITY MENTAL HEALTH CENTER, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR FACILITY IMPROVEMENTS. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		PLANS			1		
		LAND			1		
		DESIGN			1		
		CONSTRUCTION			122		
		TOTAL FUNDING	HTH		125C		C
<b>HTH440 - ALCOHOL AND DRUG ABUSE</b>							
17.		THE ALCOHOLIC REHABILITATION SERVICES OF HAWAII, INC., STATEWIDE					
		CONSTRUCTION AND EQUIPMENT FOR PORTABLE OFFICE TRAILERS AND APPURTENANCES FOR HINA MAUKA. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			674		
		EQUIPMENT			1		
		TOTAL FUNDING	HTH		675C		C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>HTH907 - GENERAL ADMINISTRATION</b>							
18.		VARIOUS IMPROVEMENTS TO DEPARTMENT OF HEALTH FACILITIES, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR VARIOUS IMPROVEMENTS TO DOH FACILITIES STATEWIDE, IMPROVEMENTS MAY INCLUDE REROOFING, RENOVATIONS, AIR CONDITIONING UPGRADES, AND OTHER VARIOUS IMPROVEMENTS.					
		DESIGN		485		1	
		CONSTRUCTION		1		3,235	
		TOTAL FUNDING	AGS	486C		3,236C	
19.		WAIMANO RIDGE, WATER SYSTEM AND BUILDING IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION TO REPLACE WATER SYSTEM AND OTHER BUILDING IMPROVEMENTS.					
		DESIGN		1		1	
		CONSTRUCTION		7,218		1,799	
		TOTAL FUNDING	AGS	7,219C		1,800C	
20.		WAIMANO RIDGE, DEMOLITION OF BUILDINGS, OAHU					
		DESIGN AND CONSTRUCTION TO REMOVE ALL HAZARDOUS MATERIALS AND TO DEMOLISH BUILDINGS AT WAIMANO RIDGE.					
		DESIGN		357			
		CONSTRUCTION		1,431			
		TOTAL FUNDING	AGS	1,788C			C
21.		WAIMANO RIDGE MASTER PLAN, OAHU					
		PLANS FOR A MASTER PLAN FOR WAIMANO RIDGE IN PEARL CITY. PLANNING ACTIVITIES INCLUDING BUT NOT LIMITED TO ATTENDING MEETINGS, PRESENTATIONS, ENVIRONMENTAL ASSESSMENTS, SUB-DIVISION APPLICATIONS, AND OTHER PLANNING ACTIVITIES.					
		PLANS		700			
		TOTAL FUNDING	HTH	700C			C
<b>F. SOCIAL SERVICES</b>							
<b>HMS501 - IN-COMMUNITY YOUTH PROGRAMS</b>							
1.		AMERICAN BOX CAR RACING INTERNATIONAL, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A YOUTH FACILITY ON OAHU. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		PLANS		1			
		DESIGN		1			
		CONSTRUCTION		73			
		TOTAL FUNDING	HMS	75C			C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
2.		HALE KIPA, INC, OAHU					
		DESIGN AND CONSTRUCTION FOR A SERVICES CENTER. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN			100		
		CONSTRUCTION			400		
		TOTAL FUNDING	HMS		500C		C
3.		HUI MALAMA I KE KAI FOUNDATION, OAHU					
		CONSTRUCTION FOR THE DEVELOPMENT OF A YOUTH CENTER. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			39		
		TOTAL FUNDING	HMS		39C		C
<b>HMS503 - HAWAII YOUTH CORRECTIONAL FACILITY (HYCF)</b>							
4.	F80701	LUMP SUM CIP - REPAIRS, IMPROVEMENTS, AND SAFETY MEASURES, OAHU					
		CONSTRUCTION FOR REPAIRS AND IMPROVEMENTS TO THE HAWAII YOUTH CORRECTIONAL FACILITY TO ADDRESS THE U.S. DEPARTMENT OF JUSTICE MEMORANDUM OF AGREEMENT AND OTHER SAFETY CONCERNS.					
		CONSTRUCTION			800		
		TOTAL FUNDING	HMS		800C		C
<b>DEF112 - SERVICES TO VETERANS</b>							
5.	OVS932	HAWAII STATE VETERANS CEMETERY, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE HAWAII STATE VETERANS CEMETERY. IMPROVEMENTS MAY INCLUDE, BUT NOT BE LIMITED TO, ROAD REPAIR, DRAINAGE REPAIR, AND SLOPE REPAIR ABOVE THE COLUMBARIUM.					
		DESIGN			20		
		CONSTRUCTION			280		
		TOTAL FUNDING	AGS		300C		C
6.		LUMP SUM CIP - VETERANS CEMETERY IMPROVEMENTS, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR REPAIRS AND IMPROVEMENTS TO VETERANS CEMETERIES STATEWIDE.					
		PLANS			1		1
		DESIGN			19		99
		CONSTRUCTION			180		900
		TOTAL FUNDING	DEF		200C		1,000C
7.		ARIZONA MEMORIAL MUSEUM ASSOCIATION, OAHU					
		CONSTRUCTION TO REPLACE THE MUSEUM VISITOR CENTER AT THE USS ARIZONA MEMORIAL PARK AND TO CENTRALIZE VISITOR					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		ENTRY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION		1,000			
		TOTAL FUNDING	DEF	1,000	C		
8.		PACIFIC AVIATION MUSEUM - PEARL HARBOR, OAHU					
		CONSTRUCTION FOR PHASE II OF THE RESTORATION OF THE HISTORIC STRUCTURES ON FORD ISLAND AND THE CONSTRUCTION OF MUSEUM EXHIBITS WITHIN HANGER 79. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION		500			
		TOTAL FUNDING	DEF	500	C		
9.		MOLOKAI VETERANS CARING FOR VETERANS, MOLOKAI					
		DESIGN AND CONSTRUCTION FOR DEVELOPMENT OF FACILITIES FOR THE CARING OF VETERANS. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN		25			
		CONSTRUCTION		225			
		TOTAL FUNDING	DEF	250	C		
<b>HMS601 - ADULT AND COMMUNITY CARE SERVICES</b>							
10.		LA'A KEA FOUNDATION, MAUI					
		DESIGN AND CONSTRUCTION FOR THE SUNRISE FARM COMMUNITY OF MAUI. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN		447			
		CONSTRUCTION		1			
		TOTAL FUNDING	HMS	448	C		
11.		PEARL CITY FOUNDATION, OAHU					
		DESIGN AND CONSTRUCTION FOR AN ADULT DAY HEALTH AND CHILD CARE FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN		1			
		CONSTRUCTION		1,999			
		TOTAL FUNDING	HMS	2,000	C		
<b>HMS220 - RENTAL HOUSING SERVICES</b>							
12.	F22001	ELEVATOR IMPROVEMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR ELEVATOR MODERNIZATION AT KUHIO PARK TERRACE, MAKUA ALII, BANYAN STREET MANOR, KALANIHUIA, KALAKAUA HOMES, AND HALE POAI.					
		DESIGN		750			
		CONSTRUCTION		4,250			
		TOTAL FUNDING	HMS	5,000	C		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
13.	F22002	LUMP SUM CIP - NON-ROUTINE REPAIR AND MAINTENANCE IMPROVEMENTS AND RENOVATIONS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR NON-ROUTINE REPAIR AND MAINTENANCE, IMPROVEMENTS, AND RENOVATIONS.					
		DESIGN			2,000		
		CONSTRUCTION			18,000		
		TOTAL FUNDING	HMS		20,000	C	
<b>HMS224 - HOMELESS SERVICES</b>							
14.		WAIMANALO HOMELESS SHELTER, OAHU					
		PLANS AND DESIGN FOR A HOMELESS SHELTER IN WAIMANALO.					
		PLANS			1		
		DESIGN			299		
		TOTAL FUNDING	HMS		300	C	
15.		HAWAII COALITION OF CHRISTIAN CHURCHES, OAHU					
		CONSTRUCTION FOR EMERGENCY, TRANSITIONAL, AND/OR LOW INCOME HOUSING. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			250		
		TOTAL FUNDING	HMS		250	C	
16.		HAWAII HABITAT FOR HUMANITY ASSOCIATION, INC., STATEWIDE					
		CONSTRUCTION FOR THE PURCHASE OF CONSTRUCTION MATERIALS. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			300		
		TOTAL FUNDING	HMS		300	C	
<b>HHL602 - PLANNING AND DEVELOPMENT FOR HAWAIIAN HOMESTEADS</b>							
17.		LAIOPUA 2020, HAWAII					
		DESIGN AND CONSTRUCTION FOR DEVELOPMENT OF A REGIONAL RECREATION AND COMMUNITY CENTER COMPLEX. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN			1		
		CONSTRUCTION			124		
		TOTAL FUNDING	HHL		125	C	
18.		NANAKULI HAWAIIAN HOMESTEAD COMMUNITY ASSOCIATION, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE DEVELOPMENT OF A HAWAIIAN CENTER. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			248		
		TOTAL FUNDING	HHL		250	C	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>HTH904 - EXECUTIVE OFFICE ON AGING</b>							
19.		PALOLO CHINESE HOME, OAHU					
		CONSTRUCTION FOR THE PALOLO CHINESE HOME'S FOOD SERVICE COMPLEX, WELLNESS CENTER, AND SUPPORTING INFRASTRUCTURE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			250		
		TOTAL FUNDING	HTH		250C		C
<b>HMS901 - GENERAL SUPPORT FOR SOCIAL SERVICES</b>							
20.		HALE MAKUA, MAUI					
		CONSTRUCTION FOR INSTALLATION OF A NEW SPRINKLER SYSTEM. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			750		
		TOTAL FUNDING	HMS		750C		C
<b>G. FORMAL EDUCATION</b>							
<b>EDN100 - SCHOOL-BASED BUDGETING</b>							
1.	0014	LUMP SUM CIP - PROJECT POSITIONS, STATEWIDE					
		PLANS FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT, PROJECT-FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF EDUCATION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM RELATED POSITIONS.					
		PLANS			3,870		4,600
		TOTAL FUNDING	EDN		3,870B		4,600B
2.	001001	LUMP SUM CIP - RELOCATE/CONSTRUCT TEMPORARY FACILITIES, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RELOCATION OR CONSTRUCTION OF TEMPORARY FACILITIES AND RELATED SITE IMPROVEMENTS, EACH SCHOOL YEAR TO MEET ENROLLMENT SHIFTS, UNFORESEEN EMERGENCIES, AND TO PROVIDE TEMPORARY FACILITIES WHILE NEW SCHOOLS ARE BEING PLANNED AND/OR CONSTRUCTED.					
		DESIGN			200		
		CONSTRUCTION			7,100		
		EQUIPMENT			128		
		TOTAL FUNDING	EDN		6,000B		B
			EDN		1,428R		R
3.		LUMP SUM CIP - CESSPOOL REMOVAL, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE ELIMINATION OF CESSPOOLS; GROUND AND SITE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN		100			
		CONSTRUCTION		4,900			
		TOTAL FUNDING	EDN	5,000B			B
4.		LUMP SUM CIP - SCHOOL BUILDING IMPROVEMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE IMPROVEMENTS OF PUBLIC SCHOOL FACILITIES, STATEWIDE. MAY INCLUDE PROJECT MANAGEMENT AND CONSTRUCTION MANAGEMENT SERVICES, ROOFING, AIR CONDITIONING, PAINTING, PLUMBING, AND OTHER REPAIRS AND IMPROVEMENTS TO PUBLIC SCHOOL FACILITIES.					
		DESIGN		10,000			
		CONSTRUCTION		65,000			
		TOTAL FUNDING	EDN	25,000B			B
			EDN	50,000A			R
5.		LUMP SUM CIP - PROJECT ADJUSTMENT FUND, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT. OTHER DEPARTMENT OF EDUCATION PROJECTS WITHIN THIS ACT WITH UNREQUIRED BALANCES MAY BE TRANSFERRED INTO THIS PROJECT.					
		PLANS		1			1
		LAND		1			1
		DESIGN		300			300
		CONSTRUCTION		697			697
		EQUIPMENT		1			1
		TOTAL FUNDING	EDN	1,000B			1,000B
6.		LUMP SUM CIP - ARCHITECTURAL BARRIER REMOVAL, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE PROVISION OF RAMPS, ELEVATORS, AND OTHER CORRECTIVE MEASURES FOR ACCESSIBILITY OF SCHOOL FACILITIES TO HANDICAPPED PERSONS.					
		DESIGN		200			100
		CONSTRUCTION		2,300			1,900
		TOTAL FUNDING	EDN	2,500B			2,000B
7.		LUMP SUM CIP - PUBLIC ACCOMMODATIONS TRANSITION PLAN, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE PROVISION OF RAMPS, ELEVATORS, AND OTHER CORRECTIVE MEASURES FOR ACCESSIBILITY OF SCHOOL FACILITIES TYPICALLY VISITED BY THE PUBLIC.					
		DESIGN		200			100
		CONSTRUCTION		2,300			1,900
		TOTAL FUNDING	EDN	2,500B			2,000B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
8.		LUMP SUM CIP - ASBESTOS/LEAD REMOVAL, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE CORRECTION, IMPROVEMENT, AND RENOVATION OF ALL EXISTING SCHOOL BUILDINGS. PROJECT TO INCLUDE THE REMOVAL OF ASBESTOS AND/OR LEAD.					
		DESIGN			100		100
		CONSTRUCTION			900		900
		TOTAL FUNDING	EDN		1,000B		1,000B
9.		LUMP SUM CIP - SPECIAL EDUCATION RENOVATIONS, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO RENOVATE CLASSROOMS TO ADDRESS SPECIAL EDUCATION NEEDS.					
		DESIGN			150		150
		CONSTRUCTION			825		825
		EQUIPMENT			25		25
		TOTAL FUNDING	EDN		1,000B		1,000B
10.		LUMP SUM CIP - GENDER EQUITY, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR GENDER EQUITY PROJECTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			300		300
		CONSTRUCTION			500		500
		EQUIPMENT			200		200
		TOTAL FUNDING	EDN		1,000B		1,000B
11.		LUMP SUM CIP - FIRE PROTECTION, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR FIRE PROTECTION SYSTEMS AND/OR CORRECTIVE MEASURES TO ADDRESS FIRE CODE VIOLATIONS.					
		DESIGN			100		100
		CONSTRUCTION			400		400
		TOTAL FUNDING	EDN		500B		500B
12.		LUMP SUM CIP - HEALTH AND SAFETY, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO SCHOOL FACILITIES AND GROUNDS TO MEET HEALTH, SAFETY REQUIREMENTS/LAWS, AND ORDINANCES AND/OR COUNTY REQUIREMENTS.					
		DESIGN			100		100
		CONSTRUCTION			400		400
		TOTAL FUNDING	EDN		500B		500B
13.		LUMP SUM CIP - ELECTRICAL UPGRADES, STATEWIDE					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ELECTRICAL SYSTEM UPGRADES AT VARIOUS SCHOOLS.					
		PLANS			1		
		DESIGN			2,498		
		CONSTRUCTION			22,500		
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		25,000B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
14.		LUMP SUM CIP - NOISE/HEAT ABATEMENT, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR CORRECTIVE MEASURES TO SCHOOLS AFFECTED BY EXCESSIVE NOISE AND VENTILATION PROBLEMS.					
		DESIGN		400		400	
		CONSTRUCTION		3,600		3,600	
		TOTAL FUNDING	EDN	4,000B		4,000B	
15.		LUMP SUM CIP - TELECOMMUNICATIONS, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TELECOMMUNICATIONS, AND POWER INFRASTRUCTURE IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN		250		250	
		CONSTRUCTION		1,700		1,700	
		EQUIPMENT		50		50	
		TOTAL FUNDING	EDN	2,000B		2,000B	
16.		LUMP SUM CIP - MASTER PLAN/LAND ACQUISITION, 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 CONSULTANTS IN PROVIDING COST ESTIMATES.					
		PLANS		895		120	
		LAND		5		5	
		TOTAL FUNDING	EDN	900B		125B	
17.		LUMP SUM CIP - PLAYGROUND EQUIPMENT AND ACCESSIBILITY, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO REPLACE PLAYGROUND EQUIPMENT WHICH DO NOT MEET SAFETY STANDARDS, PROVIDE APPROPRIATE PADDING IN THE AREA OF PLAYGROUND EQUIPMENT, PROVIDE ACCESSIBILITY TO THE PLAY AREAS/EQUIPMENT PER AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES (ADAAG); GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN		50		50	
		CONSTRUCTION		1,430		1,430	
		EQUIPMENT		20		20	
		TOTAL FUNDING	EDN	1,500B		1,500B	
18.		AHUIMANU ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR THE PROVISION OF RAMPS, ELEVATORS, AND OTHER CORRECTIVE MEASURES FOR ACCESSIBILITY OF SCHOOL FACILITIES TYPICALLY VISITED BY THE PUBLIC; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		DESIGN			50		
		CONSTRUCTION			540		
		TOTAL FUNDING	EDN		590B		B
19.		AIEA INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO EXPAND AND RENOVATE THE CAFETERIA STAGE, AND ADD DRESSING ROOMS ON EITHER SIDE OF THE STAGE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			160		
		CONSTRUCTION			1,560		
		EQUIPMENT			20		
		TOTAL FUNDING	EDN		1,740B		B
20.		ALA WAI ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION TO REROOF AND REPAIR WALKWAYS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			10		
		CONSTRUCTION			90		
		TOTAL FUNDING	EDN		100B		B
21.		ALIOLANI ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION TO INSTALL DRAINAGE DITCH ALONG CAFETERIA BUILDING AND PAVE ADJACENT PARKING AREA; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			15		
		CONSTRUCTION			70		
		TOTAL FUNDING	EDN		85B		B
22.		AUGUST AHRENS ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR HEAT ABATEMENT IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			90		
		CONSTRUCTION			910		
		TOTAL FUNDING	EDN		1,000B		B
23.		BALDWIN HIGH SCHOOL, MAUI					
		DESIGN AND CONSTRUCTION FOR TELECOMMUNICATIONS UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			80		
		CONSTRUCTION			780		
		TOTAL FUNDING	EDN		860B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
24.		CASTLE HIGH SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR DINING ROOM EXPANSION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			270		
		CONSTRUCTION			2,830		
		TOTAL FUNDING	EDN		3,100B		B
25.		DOLE MIDDLE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TEMPORARY FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			100		
		CONSTRUCTION			1,050		
		EQUIPMENT			50		
		TOTAL FUNDING	EDN		1,200B		B
26.		DOLE MIDDLE SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION TO REROOF THE KITCHEN; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			10		
		CONSTRUCTION			158		
		TOTAL FUNDING	EDN		168B		B
27.		ELEELE ELEMENTARY, KAUAI					
		DESIGN AND CONSTRUCTION FOR ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			70		
		CONSTRUCTION			680		
		TOTAL FUNDING	EDN		750B		B
28. 051		EWA MAKAI MIDDLE SCHOOL, NEW SCHOOL, OAHU					
		LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW MIDDLE SCHOOL IN THE EWA REGION; GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					
		LAND			1		
		DESIGN			1		
		CONSTRUCTION			66,881		
		EQUIPMENT					800
		TOTAL FUNDING	EDN		66,883B		800B
29.		HILO HIGH SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW GYMNASIUM THAT WILL ALSO SERVE AS AN EMERGENCY SHELTER, TO INCLUDE DEMOLITION OF THE EXISTING GYM IF NECESSARY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		DESIGN			1		
		CONSTRUCTION			4,998		
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		5,000B		B
30.		HONOWAI ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ELECTRICAL SYSTEM IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			100		
		CONSTRUCTION			1,899		
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		2,000B		B
31.		ILIAHI ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A PLAY COURT COVER; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			150		
		CONSTRUCTION			1,349		
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		1,500B		B
32.		JARRETT MIDDLE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW REINFORCED CEMENT FOUNDATION AND FLOOR TILING FOR BUILDINGS A AND B; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			20		
		CONSTRUCTION			819		
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		840B		B
33.		JEFFERSON ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR ELECTRICAL IMPROVEMENTS FOR BUILDING R; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			10		
		CONSTRUCTION			240		
		TOTAL FUNDING	EDN		250B		B
34.		JEFFERSON ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR RESTROOM RENOVATIONS FOR BUILDING O; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			10		
		CONSTRUCTION			240		
		TOTAL FUNDING	EDN		250B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
35.		KAAAWA ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR THE PROVISION OF RAMPS, ELEVATORS AND OTHER CORRECTIVE MEASURES FOR ACCESSIBILITY OF SCHOOL FACILITIES TYPICALLY VISITED BY THE PUBLIC; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			50		
		CONSTRUCTION			393		
		TOTAL FUNDING	EDN		443B		B
36.		KAEWAI ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			38		
		CONSTRUCTION			500		
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		539B		B
37.		KAEWAI ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION TO REPLACE KITCHEN FLOOR; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			1		
		CONSTRUCTION			64		
		TOTAL FUNDING	EDN		65B		B
38.		KAILUA INTERMEDIATE SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR PHYSICAL EDUCATION COMPLEX IMPROVEMENTS TO CREATE A RECREATION CENTER FOR KAILUA YOUTH; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			1		
		CONSTRUCTION			1,249		
		TOTAL FUNDING	EDN		1,250B		B
39.		KAIMUKI HIGH SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR RESTROOM FACILITIES FOR THE SOFTBALL FIELD; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			150		
		CONSTRUCTION			850		
		TOTAL FUNDING	EDN		1,000B		B
40.	08P021	KALAHEO ELEMENTARY SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN ADMINISTRATION/CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		DESIGN				1	
		CONSTRUCTION				4,998	
		EQUIPMENT				1	
		TOTAL FUNDING	EDN			5,000B	B
41.		KALAHEO HIGH SCHOOL, OAHU					
		DESIGN OF A NEW FOOTBALL/TRACK FIELD AND SPECTATOR SEATING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				300	
		TOTAL FUNDING	EDN			300B	B
42.		KALAMA INTERMEDIATE SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR RENOVATION OF THE ADMINISTRATION BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				499	
		CONSTRUCTION				1	
		TOTAL FUNDING	EDN			500B	B
43.		KALEIOPUU ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR A COVERED WALKWAY TO THE CAFETERIA AND OFFICE AREA; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				10	
		CONSTRUCTION				75	
		TOTAL FUNDING	EDN			85B	B
44.		KALEIOPUU ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				25	
		CONSTRUCTION				524	
		EQUIPMENT				1	
		TOTAL FUNDING	EDN			550B	B
45.		KALIHI KAI ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ELECTRICAL SYSTEM IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				74	
		CONSTRUCTION				700	
		EQUIPMENT				1	
		TOTAL FUNDING	EDN			775B	B
46.		KALIHI UKA ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR RENOVATION OF RESTROOMS; GROUND AND SITE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. WORK TO INCLUDE BUT NOT BE LIMITED TO FIXTURE REPLACEMENT AND RENOVATION OF PLUMBING TO REDUCE WATER USAGE.					
		DESIGN			44		
		CONSTRUCTION			276		
		TOTAL FUNDING	EDN		320B		B
47.		KALIHI WAENA ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR HEAT ABATEMENT IMPROVEMENTS FOR THE MUSIC ROOM, COMPUTER LAB, AND ADJOINING CLASSROOM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			25		
		CONSTRUCTION			275		
		TOTAL FUNDING	EDN		300B		B
48.		KANOELANI ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR ELECTRICAL SYSTEM IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			100		
		CONSTRUCTION			850		
		TOTAL FUNDING	EDN		950B		B
49.	08P031	KAPAA ELEMENTARY SCHOOL, KAUAI					
		DESIGN FOR A LIBRARY.					
		DESIGN			460		
		TOTAL FUNDING	EDN		460B		B
50.		KAPUNAHALA ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR A MECHANICAL LIFT IN BUILDING B; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			50		
		CONSTRUCTION			280		
		TOTAL FUNDING	EDN		330B		B
51.		KAUAI HIGH SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			74		
		CONSTRUCTION			700		
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		775B		B

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
52.		KAUAI HIGH SCHOOL, KAUAI					
		PLANS, DESIGN, AND CONSTRUCTION FOR A NEW GYMNASIUM/AUDITORIUM (GYMNATORIUM); GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		PLANS			1		
		DESIGN			998		
		CONSTRUCTION			1		
		TOTAL FUNDING	EDN		1,000B		B
53.		KAULUWELA ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR A COVERED WALKWAY BETWEEN BUILDINGS E AND F; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			15		
		CONSTRUCTION			85		
		TOTAL FUNDING	EDN		100B		B
54.		KAWANANAKOA MIDDLE SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR ELECTRICAL SYSTEM IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			80		
		CONSTRUCTION			395		
		TOTAL FUNDING	EDN		475B		B
55.		KEALAKEHE ELEMENTARY SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			60		
		CONSTRUCTION			801		
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		862B		B
56.		KEALAKEHE HIGH SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SOFTBALL FIELD IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			50		
		CONSTRUCTION			449		
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		500B		B
57.		KIHEI HIGH SCHOOL, MAUI					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW HIGH SCHOOL IN KIHEI, MAUI; GROUND AND					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		PLANS				200	
		LAND DESIGN				1	
		CONSTRUCTION				3,365	
		EQUIPMENT				16,433	
		TOTAL FUNDING	EDN		B		20,000B
58.	459B51	KILAUEA ELEMENTARY SCHOOL, KAUAI					
		CONSTRUCTION FOR A CAFETERIA; RELOCATE OR DEMOLISH EXISTING CAFETERIA BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION				4,500	
		TOTAL FUNDING	EDN			4,500B	B
59.	08P032	KING KAMEHAMEHA III ELEMENTARY SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REMEDIATION OF SINKHOLES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				350	
		CONSTRUCTION				649	
		EQUIPMENT				1	
		TOTAL FUNDING	EDN			1,000B	B
60.		KING KEKAULIKE HIGH SCHOOL, MAUI					
		DESIGN FOR A NEW AUDITORIUM.					
		DESIGN				410	
		TOTAL FUNDING	EDN			410B	B
61.		KOLOA ELEMENTARY SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				50	
		CONSTRUCTION				699	
		EQUIPMENT				1	
		TOTAL FUNDING	EDN			750B	B
62.		KUHIO ELEMENTARY SCHOOL, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A MULTIPURPOSE CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		PLANS				1	
		DESIGN				40	
		CONSTRUCTION				659	
		TOTAL FUNDING	EDN			700B	B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
63.		LAHAINALUNA HIGH SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO PROVIDE ADDITIONAL FUNDS FOR A NEW CAFETERIA; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			1		
		CONSTRUCTION			5,998		
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		6,000B		B
64.		LANAKILA ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR ELECTRICAL SYSTEM IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			70		
		CONSTRUCTION			469		
		TOTAL FUNDING	EDN		539B		B
65.		LINAPUNI ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR SOIL STABILIZATION AND STRUCTURAL REPAIRS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			80		
		CONSTRUCTION			720		
		TOTAL FUNDING	EDN		800B		B
66.		LINCOLN ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR STRUCTURAL REPAIR TO ROCK WALL AT THE MAKAI END OF LINCOLN SCHOOL'S PARKING LOT AND DRAINAGE IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			90		
		CONSTRUCTION			850		
		TOTAL FUNDING	EDN		940B		B
67.		MAUI HIGH SCHOOL, MAUI					
		DESIGN AND CONSTRUCTION FOR A MULTIPURPOSE CENTER; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			1,081		
		CONSTRUCTION			1		
		TOTAL FUNDING	EDN		1,082B		B
68.		MAUKA LANI ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR ELECTRICAL SYSTEM IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			40		
		CONSTRUCTION			435		
		TOTAL FUNDING	EDN		475B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
69.		MILLANI HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			100		
		CONSTRUCTION			1,000		
		EQUIPMENT			45		
		TOTAL FUNDING	EDN		1,145 B		B
70.		MILLANI HIGH SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION OF A DROP OFF AREA, TURN AROUND, AND GUEST PARKING FOR THE NEW CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			30		
		CONSTRUCTION			270		
		TOTAL FUNDING	EDN		300 B		B
71.		MILLANI MIDDLE SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION OF A ROOF OR ROOFS OVER THE EXISTING PLAY COURTS AND INSTALLATION OF LIGHTING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			200		
		CONSTRUCTION			2,300		
		TOTAL FUNDING	EDN		2,500 B		B
72.		MILLANI UKA ELEMENTARY, OAHU					
		DESIGN AND CONSTRUCTION FOR ELECTRICAL SYSTEM IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			75		
		CONSTRUCTION			500		
		TOTAL FUNDING	EDN		575 B		B
73.		MILLANI WAENA ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR PARTITIONS IN OPEN-POD CLASSROOMS, AND IF FUNDS PERMIT, AIR CONDITIONING FOR THOSE CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			200		
		CONSTRUCTION			1,940		
		EQUIPMENT			20		
		TOTAL FUNDING	EDN		2,160 B		B
74.		MOANALUA HIGH SCHOOL, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SCHOOL AUDITORIUM/ PERFORMING ARTS CENTER; GROUND AND SITE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
					1		
					799		
					11,400		
					100		
		TOTAL FUNDING	EDN		12,300B		B
75.		MOLOKAI HIGH SCHOOL, MOLOKAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TWO NEW SCIENCE CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
							120
							1,400
							25
		TOTAL FUNDING	EDN			B	1,545B
76.	08P030	NANAKULI HIGH AND INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
					1,335		
					1		
					1		
		TOTAL FUNDING	EDN		1,337B		B
77.		NANAKULI HIGH AND INTERMEDIATE SCHOOL, OAHU					
		PLANS AND DESIGN FOR A LEEWARD REGIONAL TRACK AND FIELD STADIUM TO INCLUDE A FULL SIZED FOUR HUNDRED METER-EIGHT LANE SYNTHETIC RUNNING TRACK AND COMPLETE FIELD EVENT AREA; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
					60		
					1,500		
		TOTAL FUNDING	EDN		1,560B		B
78.		NIU VALLEY MIDDLE SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR ARCHITECTURAL BARRIER REMOVAL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
					100		
					900		
		TOTAL FUNDING	EDN		1,000B		B
79.		NIU VALLEY MIDDLE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR PLAYGROUND EQUIPMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
					20		
					179		

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		200B		B
80.		NOELANI ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR LIBRARY IMPROVEMENTS TO ENLARGE LIBRARY WORKSPACE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			50		
		CONSTRUCTION			450		
		TOTAL FUNDING	EDN		500B		B
81.		PAHOA HIGH AND INTERMEDIATE SCHOOL, HAWAII					
		CONSTRUCTION FOR A NEW GYMNASIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION			3,000		
		TOTAL FUNDING	EDN		3,000B		B
82.	08P022	PAIA ELEMENTARY SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW CAFETERIA BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			320		
		CONSTRUCTION			4,600		
		EQUIPMENT			80		
		TOTAL FUNDING	EDN		5,000B		B
83.		PAUOA ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR ELECTRICAL SYSTEM IMPROVEMENTS AND REROOFING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			110		
		CONSTRUCTION			500		
		TOTAL FUNDING	EDN		610B		B
84.		PEARL CITY ELEMENTARY, OAHU					
		DESIGN FOR SCHOOL LIBRARY EXPANSION, RENOVATION, AND IMPROVEMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			251		
		TOTAL FUNDING	EDN		251B		B
85.		PEARL CITY HIGH SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION OF STORAGE FOR BAND INSTRUMENTS IN THE BAND ROOM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			10		
		CONSTRUCTION			55		
		TOTAL FUNDING	EDN		65B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
86.		PUKALANI ELEMENTARY SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			58		
		CONSTRUCTION			850		
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		909B		B
87.		QUEEN KAAHUMANU ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION TO EXTEND PAVED TEACHER PARKING AREA AND CONSTRUCT A FENCE AROUND THE NEWLY EXPANDED PARKING LOT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			25		
		CONSTRUCTION			255		
		TOTAL FUNDING	EDN		280B		B
88.		RADFORD HIGH SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR A MULTI-PURPOSE ROOM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			1		
		CONSTRUCTION			299		
		TOTAL FUNDING	EDN		300B		B
89.		STEVENSON MIDDLE SCHOOL, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION TO DEVELOP A MASTER PLAN TO IMPROVE THE STEVENSON MIDDLE SCHOOL COMPLEX, CAMPUS, FACILITIES, AND VEHICLE CIRCULATION.					
		PLANS			175		
		DESIGN			374		
		CONSTRUCTION			1		
		TOTAL FUNDING	EDN		550B		B
90.		WAIHAOLE ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR THE PROVISION OF RAMPS, ELEVATORS, AND OTHER CORRECTIVE MEASURES FOR ACCESSIBILITY OF SCHOOL FACILITIES TYPICALLY VISITED BY THE PUBLIC; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			50		
		CONSTRUCTION			393		
		TOTAL FUNDING	EDN		443B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
91.		WAIAKEA HIGH SCHOOL, HAWAII					
		PLANS AND DESIGN FOR A NEW ALL WEATHER TRACK AND FIELD FACILITY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		PLANS			1		
		DESIGN			399		
		TOTAL FUNDING	EDN		400B		B
92.		WAIAKEA HIGH SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SOFTBALL FIELD IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			49		
		CONSTRUCTION			450		
		EQUIPMENT			1		
		TOTAL FUNDING	EDN		500B		B
93.		WAIAKEAWAENA ELEMENTARY SCHOOL, HAWAII					
		DESIGN AND CONSTRUCTION FOR ADDITIONAL PARKING ALONG KINOOLE.					
		DESIGN			1		
		CONSTRUCTION			39		
		TOTAL FUNDING	EDN		40B		B
94.		WAIALUA ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR A MULTI-MEDIA BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			200		
		CONSTRUCTION			2,300		
		TOTAL FUNDING	EDN		2,500B		B
95.		WAIANAE HIGH SCHOOL, OAHU					
		PLANS AND DESIGN FOR A NEW CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		PLANS			1		
		DESIGN			899		
		TOTAL FUNDING	EDN		900B		B
96.		WAIHEE ELEMENTARY SCHOOL, MAUI					
		DESIGN AND CONSTRUCTION FOR RENOVATION AND STRUCTURAL IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			600		
		CONSTRUCTION			2,000		
		TOTAL FUNDING	EDN		2,600B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
97.		WAIKELE ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION TO EXPAND FACULTY PARKING LOT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				10	
		CONSTRUCTION				90	
		TOTAL FUNDING	EDN			100B	B
98.	09P026	WAILUKU II ELEMENTARY SCHOOL, NEW SCHOOL, MAUI					
		LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW ELEMENTARY SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		LAND				1	
		DESIGN				1,117	
		CONSTRUCTION				39,659	
		EQUIPMENT				600	
		TOTAL FUNDING	EDN			41,377B	B
99.		WAILUPE VALLEY ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TELECOMMUNICATIONS UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				65	
		CONSTRUCTION				604	
		EQUIPMENT				1	
		TOTAL FUNDING	EDN			670B	B
100.		WAIMALU ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR EXPANSION OF LIBRARY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				200	
		CONSTRUCTION				3,700	
		TOTAL FUNDING	EDN			3,900B	B
101.		WAIPAHA ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR ARCHITECTURAL BARRIER REMOVAL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				10	
		CONSTRUCTION				90	
		TOTAL FUNDING	EDN			100B	B
102.		WAIPAHA HIGH SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR FENCING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				5	
		CONSTRUCTION				70	
		TOTAL FUNDING	EDN			75B	B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
103.	08P033	WEST MAUI ELEMENTARY SCHOOL, NEW SCHOOL, MAUI					
		PLANS AND DESIGN FOR A NEW ELEMENTARY SCHOOL.					
		PLANS DESIGN		649			
		TOTAL FUNDING	EDN	650B			B
104.		MALAMA LEARNING CENTER, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A SUSTAINABLE BUILDING FOR SCIENCE, CONSERVATION, CULTURE, AND ARTS EDUCATION IN WEST OAHU. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		PLANS DESIGN		1			
		CONSTRUCTION		1			
		TOTAL FUNDING	EDN	273			
				275C			C
105.		CHILDREN'S DISCOVERY CENTER, OAHU					
		CONSTRUCTION FOR FACILITY IMPROVEMENTS AT THE CHILDREN'S DISCOVERY CENTER. PROJECT QUALIFIES AS A GRANT PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION		125			
		TOTAL FUNDING	EDN	125C			C
106.		KCAA PRESCHOOLS OF HAWAII, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR DEVELOPMENT OF NEW TRAINING CENTER. PROJECT QUALIFIES AS A GRANT PURSUANT TO CHAPTER 42F, HRS.					
		PLANS DESIGN		1			
		CONSTRUCTION		1			
		TOTAL FUNDING	EDN	248			
				250C			C
<b>EDN407 - PUBLIC LIBRARIES</b>							
107.	01-H	S HEALTH AND SAFETY, STATEWIDE					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR HEALTH, SAFETY, ACCESSIBILITY, AND OTHER CODE REQUIREMENTS. PROJECT MAY INCLUDE, BUT NOT BE LIMITED TO, THE REMOVAL OF HAZARDOUS MATERIALS, RENOVATIONS FOR LIBRARY PATRONS AND EMPLOYEES, ENVIRONMENTAL CONTROLS, FIRE PROTECTION, IMPROVEMENTS TO BUILDING AND GROUNDS, AND OTHER RELATED WORK.					
		PLANS		300			200
		DESIGN		1,200			250
		CONSTRUCTION		4,025			2,950
		EQUIPMENT		100			100
		TOTAL FUNDING	AGS	5,625C			3,500C

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
108. G	107	ENERGY EFFICIENCY PROJECTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR ENERGY EFFICIENCY, STATEWIDE.					
		DESIGN			500		500
		CONSTRUCTION			3,500		3,000
		TOTAL FUNDING	AGS		4,000 C		3,500 C
109.		MANOA PUBLIC LIBRARY EXPANSION, OAHU					
		DESIGN AND CONSTRUCTION FOR LIBRARY EXPANSION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			100		
		CONSTRUCTION			1,200		
		TOTAL FUNDING	AGS		1,300 C		C
110.		MILILANI PUBLIC LIBRARY PARKING LOT EXPANSION, OAHU					
		DESIGN AND CONSTRUCTION FOR PARKING LOT EXPANSION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			200		
		CONSTRUCTION			1,300		
		TOTAL FUNDING	AGS		1,500 C		C
111.		KEAAU PUBLIC LIBRARY, HAWAII					
		PLANS, LAND ACQUISITION, AND DESIGN FOR A NEW PUBLIC LIBRARY IN KEAAU, HAWAII.					
		PLANS			1		
		LAND			1		
		DESIGN			2,998		
		TOTAL FUNDING	AGS		3,000 C		C
112.		MANOA PUBLIC LIBRARY INTERIM FACILITIES, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TWO PORTABLE CLASSROOMS TO BE LOCATED ON THE GROUNDS OF NOELANI ELEMENTARY SCHOOL. THE PORTABLE CLASSROOMS WILL SERVE AS AN INTERIM LOCATION FOR THE MANOA PUBLIC LIBRARY AND REMAIN ON THE NOELANI CAMPUS FOR THE USE OF THE SCHOOL AFTER THE WORK ON THE MANOA PUBLIC LIBRARY IS COMPLETED.					
		PLANS			10		
		DESIGN			40		
		CONSTRUCTION			500		
		EQUIPMENT			50		
		TOTAL FUNDING	AGS		600 C		C
113.		MCCULLY-MOILILI PUBLIC LIBRARY, AIR CONDITIONING, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO REPAIR OR REPLACE THE MCCULLY-MOILILI PUBLIC LIBRARY AIR CONDITIONING SYSTEM.					
		PLANS			1		
		DESIGN			24		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		CONSTRUCTION EQUIPMENT			100		
		TOTAL FUNDING	AGS		275		
					400C		C
<b>UOH100 - UNIVERSITY OF HAWAII, MANOA</b>							
114.	M93	UHM, WAAHILA FACULTY HOUSING, OAHU					
		PLANS FOR EXPANDING FACULTY HOUSING AT THE WAAHILA FACULTY HOUSING PROJECT.					
		PLANS			300		
		TOTAL FUNDING	UOH		300W		W
115.	R10	UHM, ENCLOSURE OF COURTYARDS FOR RESEARCH LABORATORIES, OAHU					
		PLANS FOR A FEASIBILITY STUDY OF ENCLOSING EXISTING BUILDING COURTYARDS FOR THE PURPOSE OF INCREASING LABORATORY RESEARCH SPACE AT THE UNIVERSITY OF HAWAII AT MANOA.					
		PLANS			500		
		TOTAL FUNDING	UOH		500W		W
116.		UHM, CAMPUS CENTER RENOVATION AND ADDITION, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATION AND ADDITION TO THE CAMPUS CENTER COMPLEX.					
		PLANS			1		2
		DESIGN			1,499		2
		CONSTRUCTION			7,000		11,379
		EQUIPMENT					3,000
		TOTAL FUNDING	UOH		7,000C		C
			UOH		E		14,383E
			UOH		1,500W		W
117.		UHM, KOMOHANA AGRICULTURAL COMPLEX, HAWAII					
		PLANS AND DESIGN FOR PHASE II OF THE KOMOHANA AGRICULTURAL COMPLEX.					
		PLANS			1		
		DESIGN			763		
		TOTAL FUNDING	UOH		764C		C
<b>UOH210 - UNIVERSITY OF HAWAII, HILO</b>							
118.		UHH, US GEOLOGICAL SURVEY BUILDING, HAWAII					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE US GEOLOGICAL SURVEY BUILDING. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS			300		
		DESIGN			3,000		
		CONSTRUCTION					30,000
		EQUIPMENT					3,000
		TOTAL FUNDING	UOH		3,300N		33,000N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
119.		UHH, STUDENT SERVICES BUILDING, ADDITION AND RENOVATION, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ADDITION AND RENOVATION OF STUDENT SERVICES BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN		1,331			
		CONSTRUCTION		24,811			
		EQUIPMENT				1,640	
		TOTAL FUNDING	UOH	26,142C		1,640C	
120.		UHH, NORTH HAWAII EDUCATIONAL RESOURCE CENTER, PHASE IIB, HAWAII					
		CONSTRUCTION FOR RENOVATIONS AND IMPROVEMENTS FOR THE NORTH HAWAII EDUCATIONAL RESOURCE CENTER.					
		CONSTRUCTION		2,932			
		TOTAL FUNDING	UOH	2,932C			C
121.		UHH, COLLEGE OF PHARMACY BUILDING, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION FOR COLLEGE OF PHARMACY BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. PROJECT MAY BE USED FOR TEMPORARY FACILITIES.					
		PLANS		1			
		DESIGN		1,000			
		CONSTRUCTION		4,999			
		TOTAL FUNDING	UOH	6,000C			C
122.		UHH, COLLEGE OF PHARMACY BUILDING, HAWAII					
		PLANS AND DESIGN FOR THE COLLEGE OF PHARMACY BUILDING. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, DEVELOPMENT OF NEW PERMANENT FACILITY, EQUIPMENT, APPURTENANCES, AND ALL RELATED PROJECT COSTS.					
		PLANS		800			
		DESIGN		1,700			
		TOTAL FUNDING	UOH	2,500R			R
<b>UOH700 - UNIVERSITY OF HAWAII, WEST OAHU</b>							
123.		UHWO, CAMPUS DEVELOPMENT, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE DEVELOPMENT OF THE UNIVERSITY OF HAWAII - WEST OAHU. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, CONSTRUCTION OF INFRASTRUCTURE AND NEW FACILITIES, AND ALL PROJECT RELATED COSTS.					
		DESIGN		7,558			
		CONSTRUCTION		127,440			
		EQUIPMENT		2			
		TOTAL FUNDING	UOH	100,000B			B
			UOH	35,000C			C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>UOH800 - UNIVERSITY OF HAWAII, COMMUNITY COLLEGES</b>							
124.		WIN, LIBRARY AND LEARNING CENTER, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A LIBRARY AND RESOURCES CENTER AT WINDWARD COMMUNITY COLLEGE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			1		
		CONSTRUCTION			41,577		
		EQUIPMENT			1		
		TOTAL FUNDING	UOH		41,579C		C
125.		CCS, TEMPORARY FACILITIES FOR NURSING PROGRAM, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TEMPORARY FACILITIES FOR NURSING PROGRAMS AT LEEWARD, MAUI, HAWAII, AND KAUAI COMMUNITY COLLEGES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			665		
		CONSTRUCTION			6,171		
		EQUIPMENT			1		
		TOTAL FUNDING	UOH		6,837C		C
126. A32		HON, ADVANCED TECHNOLOGY TRAINING CENTER, OAHU					
		DESIGN FOR AN ADVANCED TECHNOLOGY TRAINING CENTER. PROJECT TO INCLUDE SCIENCE PROGRAM REQUIREMENTS, GROUND AND SITE IMPROVEMENTS, DEVELOPMENT OF A NEW FACILITY, EQUIPMENT, APPURTENANCES, AND ALL PROJECT RELATED COSTS.					
		DESIGN			3,494		
		TOTAL FUNDING	UOH		3,494C		C
127. A33		HON, PACIFIC AEROSPACE TRAINING CENTER, REROOF HANGAR 111, OAHU					
		DESIGN AND CONSTRUCTION FOR THE REROOFING OF HANGAR 111 FOR THE PACIFIC AEROSPACE TRAINING CENTER.					
		DESIGN			320		
		CONSTRUCTION			2,968		
		TOTAL FUNDING	UOH		3,288C		C
<b>UOH900 - UNIVERSITY OF HAWAII, SYSTEM WIDE SUPPORT</b>							
128. 536		SYS, HEALTH, SAFETY, AND CODE REQUIREMENTS, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR MODIFICATIONS TO EXISTING FACILITIES AND/OR CONSTRUCTION OF NEW FACILITIES FOR HEALTH, SAFETY, AND OTHER CODE REQUIREMENTS.					
		PLANS			1		
		DESIGN			1,490		
		CONSTRUCTION			16,442		
		TOTAL FUNDING	UOH		17,933C		C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
129. 541		SYS, CAPITAL RENEWAL AND DEFERRED MAINTENANCE, STATEWIDE					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CAPITAL RENEWAL AND DEFERRED MAINTENANCE PROJECTS AT THE UNIVERSITY OF HAWAII. PROJECT TO INCLUDE REROOFING, MECHANICAL AND ELECTRICAL SYSTEMS, RENOVATIONS, RESURFACING, REPAINTING, AND OTHER REPAIRS AND PROJECT COSTS TO UPGRADE FACILITIES AT ALL UNIVERSITY CAMPUSES.					
		PLANS			500		
		DESIGN			2,250		
		CONSTRUCTION			29,316		
		EQUIPMENT			1		
		TOTAL FUNDING	UOH		32,067	C	C
<b>H. CULTURE AND RECREATION</b>							
<b>LNR802 - HISTORIC PRESERVATION</b>							
1.		CENTRAL UNION CHURCH, OAHU					
		CONSTRUCTION FOR CENTRAL UNION CHURCH FACILITY IMPROVEMENTS. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			125		
		TOTAL FUNDING	LNR		125	C	C
2.		KAWAIAHAO CHURCH, OAHU					
		CONSTRUCTION FOR IMPROVEMENTS FOR THE KAWAIAHAO CHURCH CAMPUS. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			250		
		TOTAL FUNDING	LNR		250	C	C
3.		KONA HISTORICAL SOCIETY, HAWAII					
		DESIGN AND CONSTRUCTION FOR FACILITY DEVELOPMENT OF AN ORIENTATION BUILDING. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN			1		
		CONSTRUCTION			99		
		TOTAL FUNDING	LNR		100	C	C
<b>LNR804 - FOREST AND OUTDOOR RECREATION</b>							
4. D00B		IMPROVEMENTS TO DIVISION OF FORESTRY AND WILDLIFE FACILITIES, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION OF BRIDGES, ROADS, INTERPRETIVE CENTERS, VIEWING AREAS, AND RESTROOMS.					
		PLANS			15		
		DESIGN			75		
		CONSTRUCTION			160		250
		TOTAL FUNDING	LNR		250	C	250C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
5.		KAUAI PLANNING AND ACTION ALLIANCE, INC., KAUAI					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TRAIL RESTORATION AND RECONSTRUCTION AT THE NA PALI COAST WILDERNESS STATE PARK AND REBUILDING OF THE CIVILIAN CONSERVATION CORPS CAMP AT KOKE'E STATE PARK. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		PLANS				1	
		DESIGN				1	
		CONSTRUCTION				1,222	
		EQUIPMENT				1	
		TOTAL FUNDING	LNR			1,225	C
<b>LNR806 - PARKS ADMINISTRATION AND OPERATION</b>							
6.	F11A	IOLANI PALACE STATE MONUMENT, OAHU					
		CONSTRUCTION FOR AIR CONDITIONING, CLIMATE CONTROL, AND RELATED IMPROVEMENTS TO PRESERVE HISTORIC AND CULTURAL ARTIFACTS.					
		CONSTRUCTION				4,500	
		TOTAL FUNDING	LNR			4,500	C
7.	F37A	DIAMOND HEAD STATE MONUMENT, OAHU					
		CONSTRUCTION OF ROCKFALL MITIGATION MEASURES AND RELATED IMPROVEMENTS.					
		CONSTRUCTION				2,000	
		TOTAL FUNDING	LNR			2,000	C
8.	H-46	LUMP SUM CIP - STATE PARKS FACILITY IMPROVEMENTS, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR STATE PARKS IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS.					
		PLANS				1	
		DESIGN				249	
		CONSTRUCTION				4,750	
		TOTAL FUNDING	LNR			5,000	C
9.		MACKENZIE STATE PARK, VARIOUS IMPROVEMENTS, HAWAII					
		DESIGN AND CONSTRUCTION FOR COMFORT STATION AND PARK IMPROVEMENTS AT MACKENZIE STATE PARK.					
		DESIGN				250	
		CONSTRUCTION				1,000	
		TOTAL FUNDING	LNR			1,250	C
10.		LAVA TREE STATE MONUMENT, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO THE COMFORT STATION, PARKING LOT, LANDSCAPING, PAVILION, PATHWAYS, INTERPRETIVE DISPLAYS, AND					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		PICNIC AREAS AT LAVA TREE STATE MONUMENT.					
		PLANS		1			
		DESIGN		199			
		CONSTRUCTION		1,800			
		TOTAL FUNDING	LNR	2,000	C		C
11.		MANUKA STATE WAYSIDE, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION FOR COMFORT STATION, PARKING LOT, LANDSCAPING, AND PICNIC AREA IMPROVEMENTS AT MANUKA STATE WAYSIDE.					
		PLANS		1			
		DESIGN		99			
		CONSTRUCTION		900			
		TOTAL FUNDING	LNR	1,000	C		C
12.		DIAMOND HEAD STATE MONUMENT, TRAIL SYSTEM IMPROVEMENTS, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR TRAIL SYSTEM IMPROVEMENTS TO IMPROVE THE LOAD DISTRIBUTION AND CARRYING CAPACITY OF THE TRAIL SYSTEM AT DIAMOND HEAD STATE MONUMENT.					
		PLANS		100			
		DESIGN		200			
		CONSTRUCTION		4,100			
		TOTAL FUNDING	LNR	4,400	C		C
13.		HAWAII NATURE CENTER, KAUAI					
		DESIGN AND CONSTRUCTION FOR LEARNING CENTER DEVELOPMENT. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN		1			
		CONSTRUCTION		499			
		TOTAL FUNDING	LNR	500	C		C
14.		LANAKILA REHABILITATION CENTER, OAHU					
		DESIGN AND CONSTRUCTION FOR RENOVATION OF THE LANAKILA WAHIAWA CENTER. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN		1			
		CONSTRUCTION		299			
		TOTAL FUNDING	LNR	300	C		C

LNR801 - OCEAN-BASED RECREATION

- 15. 299D LUMP SUM CIP - FERRY SYSTEM IMPROVEMENTS, STATEWIDE

PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS AT LAHAINA, MANELE, KAUNAKAKAI AND MAALAEA SMALL BOAT HARBORS TO SUPPORT EXISTING FERRY OPERATIONS, INCLUDING PIERS, LOADING DOCKS, DREDGING, PAVING, UTILITIES,

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		COMFORT STATIONS, ADMINISTRATIVE OFFICES, COVERED WAITING AREAS, AND OTHER BERTHING OR SHORE FACILITIES. PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS		1,700			
		DESIGN		1,950			
		CONSTRUCTION		8,870		17,500	
		TOTAL FUNDING	LNR	3,920C		4,300C	
			LNR	8,600N		13,200N	
16.	299E	LUMP SUM CIP - IMPROVEMENTS TO HARBOR FACILITIES, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AT VARIOUS BOATING FACILITIES TO INCLUDE CESSPOOL CLOSURES, PIERS, LOADING DOCKS, UTILITIES, BOAT RAMPS, RESTROOMS, PARKING AREAS, STRUCTURES, DREDGING, AND OTHER RELATED WORK. WORK TO INCLUDE, BUT IS NOT LIMITED TO, PORT ALLEN CESSPOOL/WASTEWATER SYSTEM IMPROVEMENTS, WAILOA SMALL BOAT HARBOR DREDGING AND POHOIKI BOAT RAMP IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		1,100		100	
		CONSTRUCTION		10,120		1,520	
		TOTAL FUNDING	LNR	10,000D		1,000D	
			LNR	1,220N		620N	
17.	B45B	MAALAEA SMALL BOAT HARBOR, MAUI					
		LAND ACQUISITION FOR APPROXIMATELY 1.137 ACRES LOCATED AT THE CORNER OF HAUOLI AND MAALAEA ROAD, MAUI.					
		LAND		6,000			
		TOTAL FUNDING	LNR	6,000C			C
18.		MALA BOAT LAUNCHING RAMP, MAUI					
		DESIGN OF IMPROVEMENTS AND REPAIRS TO THE BOAT LAUNCHING RAMP AND RELATED WORK.					
		DESIGN		200			
		TOTAL FUNDING	LNR	200C			C
19.		KEEHI SMALL BOAT HARBOR IMPROVEMENTS, PHASE I, OAHU					
		DESIGN AND CONSTRUCTION TO REPLACE DETERIORATED PIERS AND RELATED WORK.					
		DESIGN		100			
		CONSTRUCTION		1,400			
		TOTAL FUNDING	LNR	1,500C			C
20.		HANA BOAT RAMP IMPROVEMENTS, MAUI					
		DESIGN AND CONSTRUCTION FOR REVETMENT IMPROVEMENTS, NEW LOADING DOCK,					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		IMPROVEMENTS TO BOAT RAMP, NEW WASHDOWN AREA, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN			1		
		CONSTRUCTION			905		
		TOTAL FUNDING	LNR		906C		C
21.		WAIANAE SMALL BOAT HARBOR, OAHU					
		DESIGN AND CONSTRUCTION FOR PROVIDE PARKING LOT IMPROVEMENTS, TO REPLACE THE MAIN WALKWAYS, PIERS, AND LAUNCH RAMPS, AND OTHER RELATED WORK.					
		DESIGN			300		
		CONSTRUCTION			1,400		
		TOTAL FUNDING	LNR		1,700C		C
22.		POHOIKI BOAT RAMP AND LOADING DOCK, HAWAII					
		CONSTRUCTION FOR THE REPLACEMENT OF THE BOAT LAUNCH RAMP AND LOADING DOCK AT POHOIKI BAY.					
		CONSTRUCTION			800		
		TOTAL FUNDING	LNR		800C		C
23.		MAALAEA SMALL BOAT HARBOR, ELECTRICAL IMPROVEMENTS, MAUI					
		DESIGN AND CONSTRUCTION FOR VARIOUS ELECTRICAL REPAIRS AND IMPROVEMENTS AT MAALAEA SMALL BOAT HARBOR.					
		DESIGN			1		
		CONSTRUCTION			1,299		
		TOTAL FUNDING	LNR		1,300C		C
24.		KAWAIHAE SMALL BOAT HARBOR IMPROVEMENTS, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO THE NORTHERN PORTION OF KAWAIHAE SMALL BOAT HARBOR.					
		DESIGN			25		
		CONSTRUCTION			374		
		EQUIPMENT			1		
		TOTAL FUNDING	LNR		400C		C
<b>AGS889 - SPECTATOR EVENTS AND SHOWS - ALOHA STADIUM</b>							
25.	Q104	LUMP SUM HEALTH AND SAFETY, ALOHA STADIUM, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE MITIGATION/ELIMINATION OF CONDITIONS THAT MAY BECOME HAZARDOUS TO HEALTH AND SAFETY, INCLUDING REPAIRS, ALTERATIONS, AND IMPROVEMENTS TO THE ALOHA STADIUM TO MEET CODE, SAFETY, AND/OR OPERATIONAL REQUIREMENTS.					
		PLANS			1		
		DESIGN			549		
		CONSTRUCTION			11,880		
		TOTAL FUNDING	AGS		12,430C		C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>I. PUBLIC SAFETY</b>							
<b>PSD404 - WAIAWA CORRECTIONAL FACILITY</b>							
1.		WAIAWA CORRECTIONAL FACILITY, WASTEWATER SYSTEM IMPROVEMENTS, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION OF IMPROVEMENTS TO THE WASTEWATER SYSTEM TO REMEDY DEFICIENCIES.					
		PLANS			50		
		DESIGN			185		
		CONSTRUCTION			915		
		TOTAL FUNDING	AGS		1,150C		C
2.		WAIAWA CORRECTIONAL FACILITY, IMPROVEMENTS TO FACILITY POWER SYSTEM, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION OF IMPROVEMENTS TO FACILITY POWER SYSTEM.					
		PLANS			45		
		DESIGN			65		
		CONSTRUCTION			740		
		TOTAL FUNDING	AGS		850C		C
<b>PSD900 - GENERAL ADMINISTRATION</b>							
3.	P20080	LUMP SUM CIP - REPAIRS, ALTERATIONS, AND IMPROVEMENTS FOR ALL DEPARTMENT OF PUBLIC SAFETY (PSD) PROGRAMS, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR REPAIRS, ALTERATIONS, AND IMPROVEMENTS FOR CORRECTIONAL FACILITIES.					
		PLANS			660		
		DESIGN			1,272		
		CONSTRUCTION			7,660		
		TOTAL FUNDING	PSD		9,592C		C
4.	P20083	PSD GENERAL ADMINISTRATION, ENERGY CONSERVATION PROGRAM PLANNING, STATEWIDE					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO FORMULATE, DEVELOP, AND IMPLEMENT A DEPARTMENTAL ENERGY CONSERVATION PROGRAM AT ALL PSD FACILITIES.					
		PLANS			497		
		DESIGN			1		
		CONSTRUCTION			1		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		500C		C
5.		GENERAL ADMINISTRATION, CORRECTIONAL FACILITIES DEVELOPMENT, HAWAII					
		PLANS AND DESIGN FOR CORRECTIONAL FACILITIES ON THE ISLAND OF HAWAII TO PROVIDE A MINIMUM OF 500 ADDITIONAL IN-STATE BEDS WITH SUPPORT PROGRAM SPACE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		FOR DRUG TREATMENT AND OTHER REHABILITATIVE SERVICES.					
		PLANS DESIGN			500		
		TOTAL FUNDING	AGS		4,500		
					5,000C		C
<b>DEF110 - AMELIORATION OF PHYSICAL DISASTERS</b>							
6.	A0201	BIRKHIMER TUNNEL AND SUPPORT FACILITIES, HEALTH AND SAFETY REQUIREMENTS, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO THE STATE EMERGENCY OPERATING CENTER, BIRKHIMER TUNNEL, AND SUPPORT FACILITIES TO INCLUDE AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE, SPRINKLER SYSTEM, ADDITIONAL INSTALLATION OF CONDUITS, REMOVAL OF OVERHEAD UTILITY LINES, AND OTHER IMPROVEMENTS.					
		PLANS DESIGN			1		
		CONSTRUCTION			200		100
		TOTAL FUNDING	AGS		100		600
					301C		700C
7.	C13	DISASTER WARNING AND COMMUNICATION DEVICES, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INCREMENTAL ADDITION, REPLACEMENT AND UPGRADE OF STATE CIVIL DEFENSE WARNING AND COMMUNICATIONS EQUIPMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS LAND			1		1
		DESIGN			1		1
		CONSTRUCTION			330		330
		EQUIPMENT			3,900		1,834
		TOTAL FUNDING	AGS		868		434
			AGS		5,000C		2,500C
					100N		100N
8.	P50149	KEAUKAHA JOINT MILITARY CENTER, ARMED FORCES RESERVE CENTER, HILO, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO DESIGN-BUILD A COMPLEX FOR SOLDIERS, AIRMEN, STATE EMPLOYEES, VETERANS, AND RETIREES ON THE ISLAND OF HAWAII. THIS PROJECT WILL ALSO PROVIDE AN EXPANDED PX, LIMITED COMMISSARY, AND OFFICE FOR VETERANS AFFAIRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			1,483		
		CONSTRUCTION			55,473		330
		EQUIPMENT					6,605
		TOTAL FUNDING	DEF		6,449C		480C
			DEF		50,507N		6,455N

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
9.	XXX	ARMORY RENOVATIONS, HANAPEPE, KAUAI					
		DESIGN AND CONSTRUCTION FOR REPLACEMENT OF THE HANAPEPE ARMORY ROOF, CEILING TILES, FLOORING, HIGH WINDOWS IN ASSEMBLY HALL, EXTERIOR DOORS, PAINTING, AND MISCELLANEOUS AESTHETIC AND OPERATIONAL IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			100		
		CONSTRUCTION			1,000		
		TOTAL FUNDING	DEF		550C		C
			DEF		550N		N
10.		AMERICAN RED CROSS HAWAII STATE CHAPTER, OAHU					
		CONSTRUCTION FOR RENOVATION OF THE RED CROSS HEADQUARTERS FACILITY. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION			125		
		TOTAL FUNDING	DEF		125C		C
<b>K. GOVERNMENT-WIDE SUPPORT</b>							
<b>GOV100 - OFFICE OF THE GOVERNOR</b>							
1.	G01	PROJECT ADJUSTMENT FUND, STATEWIDE					
		PLANS FOR THE ESTABLISHMENT OF A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT.					
		PLANS			1		1
		TOTAL FUNDING	GOV		1C		1C
<b>BUF101 - DEPARTMENTAL ADMINISTRATION AND BUDGET DIVISION</b>							
2.	00-01	HAWAIIAN HOME LANDS TRUST FUND, STATEWIDE					
		CONSTRUCTION TO AUTHORIZE THE TRANSFER OF GENERAL OBLIGATION BOND FUNDS TO THE HAWAIIAN HOME LANDS TRUST FUND TO SATISFY THE PROVISIONS OF ACT 14, SPSLH 1995.					
		CONSTRUCTION			50,000		30,000
		TOTAL FUNDING	BUF		50,000C		30,000C
3.	00-02	STATE EDUCATIONAL FACILITIES IMPROVEMENT SPECIAL FUND, STATEWIDE					
		CONSTRUCTION TO AUTHORIZE THE TRANSFER OF GENERAL OBLIGATION BOND FUNDS TO THE STATE EDUCATIONAL FACILITIES IMPROVEMENT SPECIAL FUND.					
		CONSTRUCTION			292,158		43,570
		TOTAL FUNDING	BUF		292,158C		43,570C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
<b>AGS131 - INFORMATION PROCESSING SERVICES</b>							
4.	Q102	LUMP SUM HEALTH AND SAFETY, INFORMATION AND COMMUNICATION SERVICES DIVISION, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR REPAIRS, UPGRADES AND EXPANSION OF CRITICAL COMMUNICATIONS BACKBONE SYSTEMS, INCLUDING THE STATEWIDE ANUENUE AND HAWAIIAN MICROWAVE SYSTEMS AND THE WINDWARD, NORTH SHORE, AND CENTRAL OAHU RADIO SITES.					
		PLANS		598			24
		LAND		3			1
		DESIGN		922			125
		CONSTRUCTION		3,801			1,800
		EQUIPMENT		871			950
		TOTAL FUNDING	AGS	6,195 C			2,900 C
<b>LNR101 - PUBLIC LANDS MANAGEMENT</b>							
5.	E00A	WAIKIKI BEACH IMPROVEMENTS, OAHU					
		PLANS AND DESIGN FOR IMPROVEMENTS TO WAIKIKI BEACH.					
		PLANS		500			
		DESIGN		500			
		TOTAL FUNDING	LNR	500 B			B
				LNR			R
				LNR			S
6.	J42	DAM ASSESSMENTS, MAINTENANCE AND REMEDIATION, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR ASSESSMENTS, MAINTENANCE, AND REMEDIATION OF DAMS UNDER THE JURISDICTION OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES. SPECIAL FUNDS FROM THE SPECIAL LAND AND DEVELOPMENT FUND.					
		PLANS		1,140			
		DESIGN		2,540			
		CONSTRUCTION		50			16,800
		TOTAL FUNDING	LNR	3,730 B			2,270 B
				LNR			C
							14,530 C
7.	J42B	ROCKFALL MITIGATION, KAUAI					
		DESIGN AND CONSTRUCTION FOR ROCKFALL MITIGATION AT VARIOUS LOCATIONS, KAUAI.					
		DESIGN		100			
		CONSTRUCTION		700			
		TOTAL FUNDING	LNR	800 C			C
8.	J43A	EWA AND KEKAHA PESTICIDE REMEDIATION, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION TO MITIGATE RISK OF EXPOSURE TO HAZARDOUS					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		MATERIALS AT FORMER PESTICIDE MIXING SITES IN EWA, OAHU AND KEKAHA, KAUAI.					
		PLANS			80		
		DESIGN			20		
		CONSTRUCTION			150		
		TOTAL FUNDING	LNR		250 C		C
9.	J43B	LAND MAINTENANCE BASEYARD, HALAWA, OAHU					
		DESIGN AND CONSTRUCTION FOR BASEYARD FOR LAND MAINTENANCE CREW.					
		DESIGN			50		
		CONSTRUCTION			560		
		TOTAL FUNDING	LNR		610 C		C
<b>AGS221 - PUBLIC WORKS - PLANNING, DESIGN, AND CONSTRUCTION</b>							
10.	E109	CAPITAL IMPROVEMENTS PROGRAM STAFF COSTS, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT, PROJECT-FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES. PROJECTS MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS.					
		PLANS			6,896		6,946
		LAND			1		1
		DESIGN			1		1
		CONSTRUCTION			1		1
		EQUIPMENT			1		1
		TOTAL FUNDING	AGS		6,900 C		6,950 C
11.	P60131	ENERGY CONSERVATION IMPROVEMENTS, STATEWIDE					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR DEVELOPMENT AND IMPLEMENTATION OF A COMPREHENSIVE ENERGY CONSERVATION PLAN TO MAXIMIZE ENERGY EFFICIENCY IN PUBLIC FACILITIES AND OPERATIONS.					
		PLANS			1,700		
		DESIGN			1,400		
		CONSTRUCTION			7,890		
		EQUIPMENT			10		
		TOTAL FUNDING	AGS		11,000 C		C
12.	Q101	LUMP SUM MAINTENANCE OF EXISTING FACILITIES, PUBLIC WORKS DIVISION, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS AND MAINTENANCE OF PUBLIC FACILITIES AND SITES, STATEWIDE. PROJECTS MAY INCLUDE ROOFING, OTHER REPAIRS, AND IMPROVEMENTS.					
		PLANS			300		
		LAND			1		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		DESIGN		700			
		CONSTRUCTION		3,600			
		EQUIPMENT		399			
		TOTAL FUNDING	AGS	5,000	C		
13.	Q106	KALANIMOKU BUILDING, EMERGENCY OPERATING CENTER, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN EMERGENCY OPERATING CENTER AT KALANIMOKU BUILDING.					
		DESIGN		175			
		CONSTRUCTION		1,225			
		EQUIPMENT		1,100			
		TOTAL FUNDING	AGS	2,500	C		
14.	Q109	KEAKEALANI STATE OFFICE BUILDING REPAIR HAUKAPILA STREET, HAWAII					
		DESIGN AND CONSTRUCTION FOR REPAIR AND RESURFACING OF HAUKAPILA STREET.					
		DESIGN		70			
		CONSTRUCTION		430			
		TOTAL FUNDING	AGS	500	C		
15.		HAWAII ARTS CENTER FOR YOUTH, OAHU					
		PLANS AND DESIGN FOR A PERFORMING ARTS CENTER FOR CHILDREN AND YOUTH. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		PLANS		1			
		DESIGN		49			
		TOTAL FUNDING	AGS	50	C		
16.		HAWAII THEATRE CENTER, OAHU					
		CONSTRUCTION FOR IMPROVEMENTS TO FACILITIES OWNED BY THE HAWAII THEATRE CENTER. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION		250			
		TOTAL FUNDING	AGS	250	C		
17.		JAPANESE CULTURAL CENTER OF HAWAII, OAHU					
		CONSTRUCTION FOR REPAIRS AND IMPROVEMENTS TO THE JAPANESE CULTURAL CENTER. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION		325			
		TOTAL FUNDING	AGS	325	C		
18.		FRIENDS OF WAIPAHU CULTURAL GARDEN PARK, OAHU					
		CONSTRUCTION FOR IMPROVEMENTS AT HAWAII'S PLANTATION VILLAGE. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION		250			
		TOTAL FUNDING	AGS	250	C		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
19.		HAWAII HERITAGE CENTER, OAHU					
		DESIGN AND CONSTRUCTION FOR FACILITY DEVELOPMENT. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN				1	
		CONSTRUCTION				299	
		TOTAL FUNDING	AGS			300	C
20.		HAWAII PERFORMING ARTS COMPANY, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR FACILITY RENOVATION. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		CONSTRUCTION				149	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS			150	C
21.		MAUI COMMUNITY ARTS AND CULTURAL CENTER, MAUI					
		DESIGN AND CONSTRUCTION FOR FACILITY RENOVATION AND EXPANSION. PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.					
		DESIGN				1	
		CONSTRUCTION				249	
		TOTAL FUNDING	AGS			250	C
<b>SUB201 - CITY AND COUNTY OF HONOLULU</b>							
22.		EMS METRO STATION, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A PERMANENT FACILITY TO HOUSE METRO-1 AND MAKIKI AMBULANCES.					
		PLANS				1	
		LAND				1	
		DESIGN				597	
		CONSTRUCTION				2,000	
		EQUIPMENT				1	
		TOTAL FUNDING	CCH			2,600	C
23.		WAHIAWA TRANSIT CENTER, OAHU					
		DESIGN AND CONSTRUCTION OF A PARKING STRUCTURE FOR THE TRANSIT CENTER.					
		DESIGN				250	
		CONSTRUCTION				2,250	
		TOTAL FUNDING	CCH			2,500	C
<b>SUB301 - COUNTY OF HAWAII</b>							
24.		NORTH KONA WATER SYSTEM IMPROVEMENTS, HAWAII					
		DESIGN AND CONSTRUCTION FOR WATER SYSTEM IMPROVEMENTS TO BENEFIT AFFORDABLE HOUSING AND DHHL PROJECTS IN NORTH KONA.					
		DESIGN				500	

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 2007-08	M O F	FISCAL YEAR 2008-09	M O F
		CONSTRUCTION		11,500			
		TOTAL FUNDING	COH	12,000	U		U
<b>SUB401 - COUNTY OF MAUI</b>							
25.		BIKE AND PEDESTRIAN TRAIL, MAUI					
		DESIGN AND CONSTRUCTION FOR A BIKE AND PEDESTRIAN TRAIL ALONG THE NORTH/SOUTH COLLECTOR ROAD RESERVE CORRIDOR.					
		DESIGN		20			
		CONSTRUCTION		80			
		TOTAL FUNDING	COM	100	C		C

**PART V. CAPITAL IMPROVEMENT PROGRAM PROVISIONS**

SECTION 126. Provided that of the interdepartmental transfer fund appropriation for water and land development (LNR 141), the sum of \$14,405,000 for fiscal year 2007-2008 for North Kona water system improvements may be provided by the state agencies that will benefit from the water system improvements; provided further that those state agencies may transfer general, special, trust, or revolving funds to water and land development (LNR 141) to make the improvement.

SECTION 127. Provided that of the following revenue bond appropriations for Honolulu international airport (TRN 102) contained in part IV of this Act, the department of transportation shall submit a report on the progress of the conceptual planning and design for:

Item No.

- C-2
- C-3
- C-7
- C-8

provided further that the report shall:

- (1) Address the coordination and phasing of all modernization projects at Honolulu international airport;
- (2) Identify the transportation system(s) and technologies being considered for the people mover project;
- (3) Outline plans to mitigate the impacts of construction on travelers and other users of the airport;
- (4) Include preliminary drawings and maps showing the proposed changes to the airport;
- (5) Explain how the updated master plan for the Honolulu International Airport accounts for the proposed modernization projects;
- (6) Any other information necessary to explain the details of the department's plan for the aforementioned modernization projects;

and provided further that the report shall be submitted to the legislature no later than December 1, 2007.

SECTION 128. Provided that of the revenue bond appropriations for Kona international airport at Keahole (TRN 114) contained in part IV of this Act, the department of transportation shall submit a report on the progress of the conceptual planning and design for:

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provided further that the report shall:

- (1) Address the coordination and phasing of all modernization projects at Kona international airport at Keahole;
- (2) Outline plans to mitigate the impacts of construction on travelers and other users of the airport;
- (3) Include preliminary drawings and maps showing the proposed changes to the airport;
- (4) Explain how the updated master plan for the Kona international airport at Keahole accounts for the proposed modernization projects;
- (5) Provide any other information necessary to explain the details of the department's plan for the aforementioned modernization projects;

and provided further that the report shall be submitted to the legislature no later than December 1, 2007.

SECTION 129. Provided that of the special fund appropriation for harbors administration (TRN 395), the sum of \$600,000 or so much thereof as may be necessary for fiscal year 2007-2008 shall be used to contribute toward a cost-benefit analysis of the cruiseline industry in the State; provided that the cost-benefit analysis shall consider the array of costs and benefits that the cruiseline industry has upon the:

- (1) Economic welfare;
- (2) Physical environment;
- (3) Historical and cultural assets and practices;
- (4) Social welfare;
- (5) Harbor facilities;
- (6) Safety and security measures;
- (7) Environment and infrastructure;
- (8) Fees;
- (9) Traffic;

provided further that the cost-benefit analysis shall take into account the State as a whole and as well as each individual county; provided further that the department of transportation shall work with the department of business economic development and tourism as well as other state departments to produce the study; and provided further that one department shall submit a report to the legislature no later than twenty days prior to the convening of the 2008 regular session.

SECTION 130. Provided that of the special fund and federal fund appropriations for highways administration (TRN 595), the sum of \$18,000,000 and \$6,000,000 or so much thereof as may be necessary for fiscal year 2008-2009, respectively, for highways division capital improvement program projects staff costs, statewide, shall not be expended until department of transportation submits a proposal to convert a portion of the positions currently funded with capital improvement program funds to operating funds; provided further that the proposal to convert positions shall reflect the true costs of the highways division's capital program versus operating costs; and provided further that the proposal shall be submitted to the legislature no later than December 1, 2007.

SECTION 131. Provided that of the general obligation bond fund appropriation for Hawaii health systems corporation (HTH 210), the sum of \$20,000,000, or so much thereof as may be necessary for fiscal year 2007-2008, shall be expended by the Hawaii health systems corporation to correct health and safety deficiencies; provided further that of the total sum:

1. \$2,500,000 shall be used for a system-wide seismic mitigation evaluation study and design work;
2. \$5,215,000 shall be used to replace the elevator(s) and dumbwaiter(s) at Hilo medical center;
3. \$753,000 shall be used to renovate and upgrade the Kohala hospital;
4. \$684,000 shall be used for the repair or replacement of the Kau Hospital emergency generator;
5. \$728,000 shall be used for the replacement of operating room lights at Hilo medical center;
6. \$1,200,000 shall be used for the emergency room renovation, replacement of equipment, and building upgrades at Lanai community hospital;
7. \$300,000 shall be used for the repair or replacement of the Maui memorial medical center laundry exhaust system;
8. \$2,000,000 shall be used for exterior repairs to the buildings and reroofing at Maui memorial medical center;
9. \$1,431,000 shall be used to upgrade the flooring at Kula hospital;
10. \$500,000 shall be used to upgrade plumbing at Kula hospital;
11. \$500,000 shall be used to replace the wastewater/cesspool system and grease trap at Kula hospital;
12. \$910,000 shall be used for repairs, improvements, and/or renovations to plumbing at Maui memorial medical center;
13. \$777,000 shall be used to replace windows at Samuel Mahelona memorial hospital; and
14. \$488,000 shall be used for fire alarm upgrades at Kona community hospital;
15. \$140,000 shall be used for a fire suppression system in the medical records department at Leahi hospital;

provided further that Hawaii health systems corporation may use the balance of the general obligation bond fund appropriation for Hawaii health systems corporation (HTH 210), correct health and safety deficiencies, to supplement the projects identified above or to fund other projects; provided further that the Hawaii health systems corporation may deviate from the projects and amounts identified above to handle emergencies; and provided further that Hawaii health systems corporation shall submit a report to the legislature identifying the projects funded or intended to be funded by this appropriation no later than twenty days prior to the convening of the 2008 regular session.

SECTION 132. Provided that of the capital improvement program appropriations contained in part IV of this Act for the department of public safety, the department shall submit a quarterly report on the progress made towards implementation of all of the department's capital improvement program appropriations; provided further that for each project identified in the report, the department shall provide:

- (1) A narrative account of the progress made since the last report, or in the case of the first report, a narrative account of the current status of the project;
- (2) The percent of total work completed and the anticipated completion date;

(3) For each cost element: the total appropriation amount, lapse amount to date, expenditures to date, unallotted amount, allotment balance, encumbrance claim amount, and encumbrance contract amount; and provided further that the first report shall be due to the legislature no later than November 15, 2007 and subsequent reports shall be due ninety days after the previous report was due.

SECTION 133. Provided that of the general obligation bond fund appropriation for departmental administration and budget division (BUF 101), of the sum of \$20,000,000 for fiscal year 2007-2008 that is transferred to the department of Hawaiian home lands trust fund, any amount subsequently transferred to the department of transportation for the design and construction of the east-west collector road shall not count towards the State's obligation in making settlement payments pursuant to Act 14, special session laws of Hawaii 1995.

SECTION 134. Act 178, Session Laws of Hawaii 2005, section 85, as amended by Act 160, Session Laws of Hawaii 2006, section 5, is amended:

(1) By amending Item C-98.06 to read:

“~~[X333]~~ S333 ENVIRONMENTAL REMEDIATION OF HIGHWAY FACILITIES, OAHU

PLANS, DESIGN, AND CONSTRUCTION FOR ENVIRONMENTAL REMEDIATION MEASURES ON STATE HIGHWAYS AND FACILITIES.

PLANS				998
DESIGN				1
CONSTRUCTION				1
TOTAL FUNDING	TRN		B	1,000B”

(2) By amending Item C-98.07 to read:

“~~[X334]~~ S334 INTERSTATE ROUTE H-1, KINAU STREET OFF-RAMP IMPROVEMENTS NEAR QUEENS’ MEDICAL CENTER, OAHU

CONSTRUCTION OF A RIGHT TURN LANE FROM THE KINAU STREET OFF-RAMP TO PROVIDE ACCESS ONTO LUSITANA STREET. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CONSTRUCTION				[3,000] 5,293
TOTAL FUNDING	TRN <sup>3</sup>		N	1,293 N
			R	[1,707] 4,000R”

(3) By amending Item C-98.08 to read:

“SP0602 WAIKALUA AND LILIPUNA ROAD IMPROVEMENTS, OAHU

DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO WAIKALUA AND LILIPUNA ROAD TO INCLUDE SIDE-WALKS AND OTHER IMPROVEMENTS FOR PEDESTRIAN SAFETY. FEDERAL FUNDS ARE FROM THE SAFE ROUTES TO SCHOOL (SRTS) PROGRAM. THIS PROJECT IS DEEMED NECESSARY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

DESIGN				50
CONSTRUCTION				625
TOTAL FUNDING	TRN		N	675N”

(4) By amending Item C-98.10 to read:

“SP0603 FARRINGTON HIGHWAY IMPROVEMENTS BETWEEN HONOKAI HALE AND HAKIMO ROAD, OAHU

DESIGN AND CONSTRUCTION FOR IMPROVEMENTS ALONG FARRINGTON HIGHWAY FOR ALTERNATIVE CONGESTION RELIEF AND/OR SAFETY IMPROVEMENT PROJECTS ALONG FARRINGTON HIGHWAY BETWEEN HONOKAI HALE AND HAKIMO ROAD.

DESIGN				100
CONSTRUCTION				1,900
TOTAL FUNDING	TRN		E	2,000E”

(5) By amending Item C-115.01 to read:

“TP0601 ANE KEOHOKALO LE HIGHWAY IMPROVEMENTS, HAWAII

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE EXTENSION OF ANE KEOHOKALO LE HIGHWAY, KEANALEHU DRIVE, MANAWALEA STREET, AND SUPPORTING WATER AND SEWER LINES.

DESIGN				1
CONSTRUCTION				5,998
EQUIPMENT				1
TOTAL FUNDING	TRN		E	6,000E”

(6) By amending Item C-124.02<sup>4</sup> to read:

“V053 HONOAPIILANI HIGHWAY, [~~REVENEMENT~~] HIGHWAY SHORELINE PROTECTION AT LAUNIUPOKO, MAUI

CONSTRUCTION FOR THE REVETMENT AND/OR HIGHWAY REALIGNMENT AT LAUNIUPOKO TO PROTECT HONOAPIILANI HIGHWAY FROM SHORELINE EROSION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CONSTRUCTION				[1800] 1801
TOTAL FUNDING	TRN		E	1800E <sup>6</sup>
			<u>N</u>	<u>1N”</u>

(7) By amending Item C-124.02 to read:

“VP0601 KULA HIGHWAY AND HALEAKALA HIGHWAY IMPROVEMENTS, MAUI

PLANS, DESIGN, AND CONSTRUCTION FOR A SIDEWALK FOR KING KEKAULIKE HIGH SCHOOL ALONG KULA HIGHWAY, HALEAKALA HIGHWAY, AND OLD HALEAKALA HIGHWAY TO MAKAWAO AVENUE; APPROXIMATELY 1 1/2 MILES. FEDERAL FUNDS ARE FROM THE SAFE ROUTES TO SCHOOL (SRTS) PROGRAM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

PLANS				35
DESIGN				35
CONSTRUCTION				620
TOTAL FUNDING	TRN		N	690N”

(8) By amending Item G-91 to read:

“P50109 WAIAKEA [~~ELEMENTARY~~] MIDDLE SCHOOL, HAWAII

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR  
AIR CONDITIONING UPGRADES FOR THE  
LIBRARY; GROUND AND SITE IMPROVEMENTS;  
EQUIPMENT AND APPURTENANCES.

DESIGN				12
CONSTRUCTION				84
EQUIPMENT				24
TOTAL FUNDING	EDN		N	120B <sup>6</sup> ”

SECTION 135. 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, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>“Item No.</u>	<u>Amount (MOF)</u>
C-17	\$ 106,715 N”

SECTION 136. Any law to the contrary notwithstanding, the appropriations under Act 289, Session Laws of Hawaii 1993, section 127, as amended and renumbered by Act 252, Session Laws of Hawaii 1994, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>“Item No.</u>	<u>Amount (MOF)</u>
C-19	\$ 663,412 N
C-21	102,103 N
C-40	41,000 E
C-40	306,000 J”

SECTION 137. Any law to the contrary notwithstanding, the appropriations under Act 218, Session Laws of Hawaii 1995, section 99, as amended and renumbered by Act 287, Session Laws of Hawaii 1996, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>“Item No.</u>	<u>Amount (MOF)</u>
C-72	\$ 52,000 E”

SECTION 138. Any law to the contrary notwithstanding, the appropriations under Act 328, Session Laws of Hawaii 1997, section 140A, as amended and renumbered by Act 116, Session Laws of Hawaii 1998, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>“Item No.</u>	<u>Amount (MOF)</u>
C-10	\$ 480,094 N
C-18	192,615 N
C-63A	112,744 N”

SECTION 139. Any law to the contrary notwithstanding, the appropriations under Act 91, Session Laws of Hawaii 1999, section 64, as amended and re-

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numbered by Act 281, Session Laws of Hawaii 2000, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
C-5A	\$ 900,000 N
C-5B	30,226 N
C-5E	4,000,000 N''

SECTION 140. Any law to the contrary notwithstanding, the appropriations under Act 259, Session Laws of Hawaii 2001, section 91, as amended and re-numbered by Act 177, Session Laws of Hawaii 2002, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
A-17A	\$5,400,000 C
H-21B	2,483,580 D''

SECTION 141. Any law to the contrary notwithstanding, the appropriations under Act 200, Session Laws of Hawaii 2003, section 77, as amended and re-numbered by Act 41, Session Laws of Hawaii 2004, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
C-2	\$3,800,000 E
C-2	6,000,000 N''

SECTION 142. Any law to the contrary notwithstanding, the appropriations under Act 178, Session Laws of Hawaii 2005, section 85, as amended and re-numbered by Act 160, Session Laws of Hawaii 2006, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
B-2	\$ 2,000 C
E-4	1,200,000 C
F-11.06	1,500,000 B
G-83	285,000 B
K-3	285,000 C''

**PART VI. ISSUANCE OF BONDS**

SECTION 143. AIRPORT REVENUE BONDS. The department of transportation is authorized to issue airport revenue bonds for airport capital improvement program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond funds with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvements program projects, and, if so determined by the department and approved by the governor, such additional principal amount as may be deemed necessary by the department to pay interest on such airport revenue bonds during the estimated period of construction of the capital improvements program project for which such airport

revenue bonds are issued, to establish, maintain, or increase reserves for the airport revenue bonds heretofore authorized (whether authorized and issued or authorized and still unissued), and to pay the expenses of issuance of such bonds. The aforementioned airport revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenues from airports and related facilities under the ownership of the State or operated and managed by the department and the aviation fuel taxes levied and paid pursuant to sections 243-4(a)(2) and 248-8, Hawaii Revised Statutes, or such parts of either thereof as the department may determine, including rents, landing fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of airports and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such airport revenue bonds shall, to the extent not paid from the proceeds of such bonds, be paid from the airport revenue fund.

The governor, in the governor's discretion, is authorized to use the airport revenue fund to finance those projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be by airport revenue bond funds.

**SECTION 144. HARBOR REVENUE BONDS.** The department of transportation is authorized to issue harbor revenue bonds for harbor capital improvement program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond funds with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvement program projects, and, if so determined by the department and approved by the governor, such additional amounts as may be deemed necessary by the department to pay interest on such revenue bonds during the estimated construction period of the capital improvement project for which such harbor revenue bonds are issued to establish, maintain, or increase reserves for the harbor revenue bonds or harbor revenue bonds heretofore authorized (whether authorized and issued or authorized and still unissued), and to pay the expenses of issuance of such bonds. The aforementioned harbor revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on harbor revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenues derived from harbors and related facilities under the ownership of the State or operated and managed by the department, including rents, mooring, wharfage, dockage, pilotage fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of harbor and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such harbor revenue bonds shall, to the extent not paid from the proceeds of such bonds, be paid from the harbor special fund.

The governor, in the governor's discretion, is authorized to use the harbor revenue fund to finance those projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be by harbor revenue bond funds.

**SECTION 145. HIGHWAY REVENUE BONDS.** The department of transportation is authorized to issue highway revenue bonds for highway capital improvement projects authorized in part II and listed in part IV of this Act and designated to

be financed by revenue bond funds or by general obligation bond funds with the debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvement projects, and, if so determined by the department and approved by the governor, such additional principal amount as may be deemed necessary by the department to pay interest on such highway revenue bonds during the estimated period of construction of the capital improvement project for which such highway revenue bonds are issued, to establish, maintain, or increase reserves for such highway revenue bonds or highway revenue bonds heretofore authorized (whether authorized and issued or authorized and still unissued), and to pay all or any part of the expenses related to the issuance of such highway revenue bonds. The aforementioned highway revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on such highway revenue bonds, to the extent not paid from the proceeds of such highway revenue bonds, shall be payable from and secured by the revenues derived from highways and related facilities under the ownership of the State or operated and managed by the department, from the highway fuel taxes, vehicle weight taxes, and vehicle registration fees, levied and paid pursuant to sections 243-4, 248-8, 249-31, and 249-33, Hawaii Revised Statutes, and federal moneys received by the State or any department thereof which are available to pay principal of and/or interest on indebtedness of the State, or such part of any thereof as the department may determine, and other user taxes, fees or charges currently or hereafter derived from or arising through the ownership, operation, and management of highways and related facilities and the furnishing and supplying of the services thereof. The expenses related to the issuance of such highway revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid from the state highway fund.

The governor, in the governor's discretion, is authorized to use moneys in the state highway fund to finance those highway capital improvement projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be by revenue bond funds.

**SECTION 146. UNIVERSITY OF HAWAII REVENUE BONDS.** The university of Hawaii board of regents is authorized to issue revenue bonds for capital improvements program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds, in principal amounts as are required to yield the amounts appropriated for capital improvements program projects, and if determined by the board of regents and approved by the governor, any additional principal amount deemed necessary by the board of regents to pay interest on the revenue bonds during the estimated period of construction of the capital improvements program project for which the revenue bonds are issued, to establish, maintain, or increase reserves for the revenue bonds, and to pay all or any part of the expenses related to the issuance of the revenue bonds. The revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as amended, except that the bonds shall be issued in the name of the university of Hawaii and not in the name of the State. The principal of and interest on the revenue bonds, to the extent not paid from the proceeds of the revenue bonds, shall be payable from and secured by the revenues derived from facilities under the ownership of the university of Hawaii or operated and managed by the university of Hawaii, or any part thereof as the board of regents may determine, including other moneys, rates, rents, fees, or charges currently or hereafter derived from or arising through the ownership, operation, and management of university facilities and the furnishings and supplying of the services thereof. The expenses related to the

issuance of the revenue bonds, to the extent not paid from the proceeds of the bonds, shall be paid from the special funds of the university of Hawaii.

SECTION 147. Part VI, Act 178, Session Laws of Hawaii 2005, as amended by Act 160, Session Laws of Hawaii 2006, is amended:

(1) By adding a new section to read as follows:

“SECTION 109.01. STADIUM REVENUE BONDS. The stadium authority is authorized to issue revenue bonds for capital improvements program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds, in principal amounts as are required to yield the amounts appropriated for capital improvements program projects, and if determined by the stadium authority and approved by the governor, any additional principal amount deemed necessary by the stadium authority to pay interest on the revenue bonds during the estimated period of construction of the capital improvements program project for which the revenue bonds are issued, to establish, maintain, or increase reserves for the revenue bonds, and to pay all or any part of the expenses related to the issuance of the revenue bonds. The revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as amended, except that the bonds shall be issued in the name of the stadium authority and not in the name of the State. The principal of and interest on the revenue bonds, to the extent not paid from the proceeds of the stadium authority revenue bonds, shall be payable from and secured by the revenues derived from facilities under the ownership of the stadium authority or operated and managed by the stadium authority, or any part thereof as the stadium authority may determine, including other moneys, rates, rents, fees, or charges currently or hereafter derived from or arising through the ownership, operation, and management of stadium facilities and the furnishings and supplying of the services thereof. The expenses related to the issuance of the revenue bonds, to the extent not paid from the proceeds of the bonds, shall be paid for from special funds appropriated for the stadium authority.”<sup>17</sup>

## PART VII. SPECIAL PROVISIONS

SECTION 148. GOVERNOR’S DISCRETIONARY POWERS. Any law or provision to the contrary notwithstanding, the governor may replace general obligation bond funds appropriated for capital improvement projects with general obligation reimbursable bond funds, when the expenditure of such general obligation reimbursable bond funds is deemed appropriate for the project.

SECTION 149. Provided that 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 201H, Hawaii Revised Statutes, respectively.

The governor is authorized to use, at the governor’s discretion, the boating special fund to finance the respective public undertaking, improvement, or system described above and 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; and provided further that the governor shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this proviso for the previous twelve month period from December 1 to November

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30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 150. Provided that in the event that the authorized appropriations specified for a capital improvement project listed in this Act are insufficient and where the source of funding is designated as special funds, general obligation bond fund with debt service cost to be paid from special funds, revenue bond funds, or revolving funds, the governor may make supplemental allotments from the special fund or revolving fund responsible for cash or debt service payments for the projects, or transfer unrequired balances from other unexpired projects in this Act or prior appropriation acts which authorized the use of special funds, general obligation bond fund with debt service costs to be paid from special funds, revenue bond funds, or revolving funds; provided that such supplemental allotments shall not be used to increase the scope of the project; provided further that such supplemental allotments shall not impair the ability of the fund to meet the purposes for which it was established; and provided further that the governor shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 151. Provided that in the event that the authorized appropriations specified for a capital improvement project listed in this Act are insufficient and where the source of funding is designated as airport passenger facility charge funds, the governor may make supplemental allotments from the airport revenue fund or airport revenue bond funds, or transfer unrequired balances from other unexpired projects in this Act or prior appropriation acts that authorized the use of airport passenger facility charge funds; provided further that such supplemental allotments shall not be used to increase the scope of the project; provided further that such supplemental allotments shall not impair the ability of the fund to meet the purposes for which it was established; and provided further that the governor, at the governor's discretion, is authorized to increase the passenger facility charge fund authorization ceiling for the program to accommodate the expenditure of such funds.

SECTION 152. Provided that the governor may supplement funds for any cost element for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds appropriated for other cost elements of the same project by this Act or any other prior or future act which has not lapsed; provided that the total expenditure of funds for all cost elements shall not exceed the total appropriations for that project; and provided further that the governor shall submit a report to the legislature of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 153. Provided that after the objectives and purposes of appropriations made in this Act from the general obligation bond fund for capital improvement projects have been met, unrequired balances shall be transferred to the project adjustment fund appropriated in part II and described in part IV of this Act and shall be considered a supplementary appropriation thereto; provided that all other unrequired allotment balances, unrequired appropriation balances, and unrequired encumbrance balances shall lapse as of June 30, 2010, as provided in section 157 of this Act; and provided further that the governor shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this proviso for the previous twelve month period from December 1 to November

30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 154. Provided that in the event that authorized appropriations specified for capital improvement projects listed in this Act or in any other act currently authorized by the legislature are insufficient, and where the source of funding for the project is designated as the general obligation bond fund, the governor may make supplemental allotments from the project adjustment fund appropriated in part II and described in part IV of this Act to supplement any currently authorized capital investment cost elements; provided further that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project; and provided further that the governor shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 155. Provided that after the objectives and the purposes of appropriations made in this Act for capital investment purposes from the state educational facilities improvement special fund have been met, any unrequired balances shall be transferred to the special funded project adjustment fund for state educational facilities appropriated in part II and described further in part IV, and shall be considered a supplementary appropriation thereto.

SECTION 156. Provided that in the event that currently authorized appropriations specified for capital investment purposes listed in this Act or in any other Act currently authorized by the legislature are insufficient, and where the source of funding for the project is designated as the state educational facilities improvement special fund, the governor may make supplemental allotments from the special funded project adjustment fund for state educational facilities appropriated in part II and described further in part IV; provided further that the supplemental allotments from the special funded project adjustment fund for state educational facilities shall not be used to increase the scope of the project and may only be made to supplement currently authorized capital investment project cost elements.

SECTION 157. Provided that any law or provision of this Act to the contrary notwithstanding, the appropriations made for capital improvement projects authorized under this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all appropriations made to be expended in fiscal biennium 2007-2009 which are unencumbered as of June 30, 2010, shall lapse as of that date; provided further that this lapsing date shall not apply to: (a) appropriations for projects described in section 125 of this Act where the means of funding is designated to be the state educational facilities improvement special fund, where such appropriations have been authorized for more than three years for the construction or acquisition of public school facilities; and (b) non-general fund appropriations for projects described in section 125 of this Act where such appropriations have been deemed necessary to qualify for federal aid financing and reimbursement.

SECTION 158. Provided that where it has been determined that changed conditions, such as a reduction in the particular population being served, permit the reduction in the scope of a capital improvement project described in this Act, the governor may authorize such reduction of project scope; and provided further that the governor shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this proviso for the previous

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twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

**SECTION 159.** Provided that in releasing funds for capital improvement projects, the governor shall consider legislative intent and the objectives of the user agency and its programs; the scope and level of the user agency's intended service; and the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State; provided further that agencies responsible for construction shall take into consideration legislative intent, the objectives of the user agency and its programs, and the scope and level of the user agency's intended service, and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

**SECTION 160.** Provided that with the approval of the governor, designated expending agencies for capital improvement projects authorized in this Act may delegate to other state or county agencies the implementation of projects when it is determined advantageous to do so by both the original expending agency and the agency to which expending authority is to be delegated; and provided further that the governor shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

**SECTION 161.** Provided that the governor may authorize the expenditure of funds for capital improvement projects not previously authorized in this Act to cope with the effects of natural disasters or unforeseen emergencies, when the effects of the natural disasters or unforeseen emergencies create an urgent need to pursue a course of action that is in the best interest of the State; provided further that no funds shall be expended without a formal declaration of a natural disaster or emergency by the governor; provided further that the governor shall use the project adjustment fund authorized in part II and described in part IV to accomplish the purposes of this section; and provided further that the governor shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

**SECTION 162.** Provided that notwithstanding any provision in part III of this Act, the governor is authorized to transfer savings or unrequired balances as may be available from the appropriated funds of any program in this Act to supplement the appropriation for any other program in this Act to cope with the effects of natural disasters or other unforeseen emergencies; provided further that the effects of such natural disasters or emergencies create an urgent need to pursue a course of action which is in the best interest of the State; provided further that the use of such funds does not conflict with general law; provided further that no funds shall be expended without a formal declaration of a natural disaster or emergency by the governor; and provided further that the governor shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

**SECTION 163.** Provided that no appropriation authorized in this Act for expenditure by a political subdivision of this State shall be considered to be a mandate to undertake new programs or to increase the level of services under

existing programs of that political subdivision. If any appropriation authorized in this Act constitutes such a mandate within the provisions of section 5 of article VIII of the Hawaii State Constitution, such authorization shall be void and, in the case of capital improvement appropriations designated to be financed from the general obligation bond fund, the total general obligation bonds authorized for such projects shall be correspondingly decreased.

SECTION 164. Provided that whenever the expending agency to which an appropriation is made is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this Act, the governor shall transfer the necessary funds and positions to the proper expending agency as provided by law.

SECTION 165. Provided that in the event the State should assume the direct operation of any non-governmental agency receiving state funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, of such non-governmental agency. This credit shall be applicable regardless of when such acquisition takes place.

SECTION 166. Provided that in the event that unanticipated federal funding cutbacks diminish or curtail essential, federally-funded state programs, the governor may utilize savings as determined to be available from other state programs for the purpose of maintaining such programs until the next legislative session; and provided further that the governor shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 167. Provided that the governor may approve the expenditure of federal funds which are in excess of levels authorized by the legislature only in the event that the expenditure is made for the benefit of the public; provided further that the governor may allow for an increase in the federal fund authorization ceiling for the program to accommodate the expenditure of such funds; provided further that prior to the governor's approval to expend these funds the governor shall submit a report to the legislature; provided further that the report shall include the date when the program to receive the federal funds was first notified that additional federal funds may be available, the date that additional federal funds were known to be available, and the reasons why additional federal fund appropriations were not sought during the preceding legislative session, and an explanation of the public benefit; provided further that in the event of federal funds received as the result of a natural or manmade disaster, the governor shall submit notification to the legislature within five days after the governor's approval to expend funds has been granted; and provided further that the governor shall submit a summary report of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 168. Provided that where an agency is authorized to secure funds or other property from private organizations or individuals to be expended or utilized in connection with any authorized program, the agency, with the governor's approval, may enter into such undertaking, provided that the provisions of the undertaking comply with applicable State constitutional and statutory requirements; and provided further that the governor shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this

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proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 169. Provided that except as otherwise provided by general law, negotiations for the purchase of land by state agencies shall be subject to the approval of the governor and the department of land and natural resources, or other appropriate agency; provided further that private lands may be acquired for the purpose of exchange for federal lands when the department of land and natural resources and the governor determine that such acquisition and exchange are necessary for the completion of any project specifically authorized by this Act.

SECTION 170. Provided that except as otherwise provided, or except as prohibited by specific grant conditions, all federal or non-general fund reimbursements received by state programs shall be returned to the general fund or fund of originating expenses.

SECTION 171. Provided that unless otherwise provided in this Act, the governor is authorized to transfer operating funds between appropriations within the same fund, within an expending agency, for operating purposes; provided further that the governor shall submit a report to the legislature within five days of each use of this proviso; provided further that the report shall include the date of transfer, the amount of the transfer, the program ID from which funds were transferred, the program ID to which funds were transferred, a detailed explanation of the public purposes served by the transfer of resources; and provided further that the governor shall submit to the legislature a summary report containing the aforementioned information for each use of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 172. 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 further that all such actions shall be with the prior approval of the governor and shall be consistent with appropriations provided in this Act and with provisions of part II of chapter 37 of the Hawaii Revised Statutes; provided further that the governor shall submit a report to the legislature within five days of each use of this proviso; provided further that the report shall include the date of the transfer, the position transferred, the program from which the position was transferred, the program to which the position was transferred, responsibilities of the position prior to transfer, the responsibilities of the position after the transfer, and the manner in which the transfer maximizes the utilization of personnel resources and staff productivity; and provided further that the governor shall submit to the legislature a summary report of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 173. Any law or provision to the contrary notwithstanding, in expending funds for social welfare programs, education programs, and other programs and agencies having appropriations which are based on population and workload data as specified in the executive budget document, only so much as is necessary to provide the level of services intended by the legislature shall be expended. Affected agencies shall reduce expenditures below appropriations under procedures prescribed by the department of budget and finance in the event actual population and workload trends are less than the figures projected; and provided that

the department of budget and finance shall notify the legislature within five business days of each application of this proviso and submit a report of all applications of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 174. With the approval of the governor, agencies that use appropriations authorized in part II of this Act for audit services may delegate that responsibility and transfer funds to internal post audit (AGS 104), when it is determined by such agencies that it is advantageous to do so; and provided further that the governor shall submit to the legislature a summary report of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 175. With the approval of the governor, expending agencies that use appropriations authorized in part II of this Act for any planning or land acquisition-related work, and design, construction, and equipment for repair and alterations may delegate responsibility and transfer funds to public works – planning design and construction (AGS 221) for the implementation of the repair and alterations, when it is determined by the agencies that it is advantageous to do so; and provided further that the governor shall submit to the legislature a summary report of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 176. Agencies with appropriations authorized in part II of this Act for risk management costs shall transfer funds authorized for that purpose to state risk management and insurance administration (AGS 203) for the administration and implementation of state risk management costs and expenses, except as otherwise provided by law.

SECTION 177. With the approval of the governor, the Hawaii health systems corporation in the department of health may transfer to the department of human services funds appropriated to the Hawaii health systems corporation for the care and treatment of patients, whenever the department of human services can utilize such funds to match federal funds which may be available to help finance the cost of outpatient, acute hospital, or long-term care of indigents or medical indigents in designated critical access hospitals; provided that the director of finance shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 178. With the approval of the governor, the department of health may transfer to the department of human services funds appropriated to the department of health for the care and treatment of patients, whenever the department of human services can utilize such funds to match federal funds to finance the cost of outpatient, hospital, or skilled nursing home care of indigents or medical indigents; and provided further that the governor shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 179. The department of human services is authorized to enter into agreements with the department of health to furnish outpatient, hospital, and skilled

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nursing home care of indigents or medical indigents and to pay the department of health for such care; provided that with the approval of the director of finance, the department of health may deposit part of such receipts into the appropriations from which transfers were made as provided elsewhere in this Act; and provided further that the governor shall notify the legislature within five days of each use of this proviso and submit a report to the legislature of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 180. Provided that of the appropriation for each principal state department as defined by section 26-4, Hawaii Revised Statutes, the sum of \$2,500 in fiscal year 2007-2008 and the same sum in fiscal year 2008-2009 shall be made available in each department to be established as a separate account for a protocol fund to be expended at the discretion of the executive head of the department or agency (i.e., director, chairperson, comptroller, adjutant-general, superintendent, state librarian, president, or attorney general).

SECTION 181. Provided that of the general fund appropriation for financial administration (BUF 115), the sum of \$4,000 for fiscal year 2007-2008 and the same sum for fiscal year 2008-2009 may be used to establish a separate protocol account to be expended at the discretion of the director of finance for the promotion and improvement of state bond ratings and sales; provided further that the director of finance shall submit a detailed report of all expenditures made from the protocol account that shall include the date of any expenditure, the purpose of any expenditure, the name of the entity that received the funds, and an explanation of the manner in which the expenditures promoted and improved the state bond ratings and sales; and provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 182. Provided that the department of budget and finance shall post on its website all finance memorandums, executive memorandums, and administrative directives on the same day that the memorandums and directives are distributed; provided further that all attachments to the memorandums and directives shall also be posted; and provided further that all finance memorandums, executive memorandums, and administrative directives issued since January 1, 2000 shall also be posted.

SECTION 183. Provided that of the special fund appropriation for spectator events and shows—Aloha Stadium (AGS 889), the sum of \$2,500 for fiscal year 2007-2008 and the same sum for fiscal year 2008-2009 may be expended at the discretion of the stadium manager for promotion and other stadium-related purposes.

SECTION 184. Except as otherwise provided, the appropriation for the office of the governor (GOV 100) shall be expended at the discretion of the governor; provided further that the office of the governor shall include in the 2007 variance report and executive budget supplement a listing of data collected for performance measures including the measures of effectiveness, program target groups, and program activities.

SECTION 185. Except as otherwise provided, the appropriation for the office of the lieutenant governor (LTG 100) shall be expended at the discretion of the lieutenant governor; provided further that the office of the lieutenant governor shall include in the 2007 variance report and executive budget supplement a listing of data

collected for performance measures including the measures of effectiveness, program target groups, and program activities.

SECTION 186. Provided that of the appropriations authorized for executive programs in part II of this Act for fiscal year 2007-2008 and fiscal year 2008-2009, settlements and judgments approved by the legislature in House Bill No. 1231<sup>7</sup>, the Claims Bill, shall be funded within each program's departmental allocation for the respective fiscal year.

SECTION 187. Provided that in the event that the amount of settlements and judgments approved by the legislature in House Bill No. 1231<sup>7</sup>, the Claims Bill, exceeds program allocations for fiscal year 2007-2008 or fiscal year 2008-2009, as applicable, for the purposes of meeting such obligations:

- (1) A department, with the approval of the governor, is authorized to utilize allocated savings determined to be available from any other program within the department; and
- (2) Unless otherwise provided by general law, the governor is authorized to transfer funds between allocations of appropriations within a department for the purposes of paying settlements and judgments of a program;

and provided further that the governor shall submit a report of all uses of this proviso for the previous twelve month period no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 188. The director of finance is authorized to expend general fund, special fund, and revolving fund savings or balances determined to be available from authorized general fund, special fund, and revolving fund program appropriations, up to an aggregate total of \$20,000,000 for fiscal year 2007-2008 and \$20,000,000 for fiscal year 2008-2009, for municipal lease payments under financing agreements entered into pursuant to chapter 37D, Hawaii Revised Statutes, to finance the acquisition of depreciable assets, including, but not limited to, automobiles, computers, printers, and telecommunications equipment; and provided further that designated expending agencies (including the department of education and the university of Hawaii) for municipal lease payments and for depreciable assets, including, but not limited to, automobiles, computers, printers, and telecommunications equipment authorized in this Act may delegate to the director of finance the implementation of such acquisitions when it is determined by all involved agencies that it is advantageous to do so; and provided further that the governor shall submit to the legislature a summary report of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 189. Provided that for all notification and reporting requirements in this Act, copies of the notification or report shall be submitted to the senate president's office, the speaker of the house of representatives' office, the senate ways and means committee chairperson's office, the house of representatives' finance committee chairperson's office, and to the appropriate standing committees' chairperson's office that has oversight responsibilities over the state program affected; provided further that the notification and report shall be posted on the website of the agency responsible for submitting the notification or report.

SECTION 190. Notwithstanding any provision in part III of this Act, the governor is authorized to transfer savings or unrequired balances as may be available of general funds from any program in this Act, up to an aggregate total of \$500,000,

to supplement the department of land and natural resources' fire-fighter's contingency fund; provided further that these funds shall be used to prevent, control, and extinguish wildland fires within forest reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves, and to fulfill mutual aid agreements in cooperation with fire control agencies of the counties and federal government.

SECTION 191. Provided that no funds, including federal funds, shall be expended to fill any position not authorized by the legislature; provided further that this prohibition shall not apply to:

- (1) The University of Hawaii and the Hawaii health systems corporation;
- (2) Positions entirely federally funded;
- (3) Positions established pursuant to section 76-16(b) subsections (3), (13), (21), and (23), Hawaii Revised Statutes; or
- (4) Where an agency has explicit statutory authorization to establish positions to accomplish necessary functions;

provided further that with regard to any of the positions identified in paragraphs (1), (2), (3), or (4), the respective agency or department shall submit a report to the legislature within ten days of each use of this provision; provided further that the report shall include:

- (1) Authority used to establish the position;
- (2) Date the position was established;
- (3) Projected date the position will be filled;
- (4) Amounts projected to be expended in fiscal year 2007-2008 and in fiscal year 2008-2009;
- (5) Source of funds used to pay for the position; and
- (6) Functions to be performed by the position;

and provided further that the department of budget and finance shall submit to the legislature a summary report of all uses of this proviso for the previous twelve month period from December 1 to November 30 no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 192. Provided that in implementing Act 51, Session Laws of Hawaii 2004, the affected departments and the department of education, with approval of the director of finance, may each transfer positions and funds to the other; and provided that the transfers are necessary to effectuate the purposes of Act 51, Session Laws of Hawaii 2004.

SECTION 193. Provided that representatives from the office of the governor, charter schools administrative office, and the board of education shall hold work sessions and meetings that are open to the public for the purpose of developing a charter schools basic funding formula at a level that is comparable to funding for regular public schools; provided further that the issue of providing funding for facilities for charter schools shall also be addressed by the group, but handled as separate from the basic funding formula, and shall recognize the differences between conversion charter schools and start-up charter schools; and provided further that this proposal shall be submitted to the legislature no later than twenty days prior to the start of the 2008 legislative session.

SECTION 194. Provided that the state auditor shall conduct an audit of the state's effort to comply with the requirement of Act 14, Special Session of 1995, to transfer lands to the Hawaiian home lands Commission, including the intent to replenish the trust corpus; provided further that the audit shall consider the value of lands transferred and the improvements upon those lands in the assessment of the adequacy and appropriateness of state efforts to fulfill the requirement; provided

further that the audit shall assess the Commission's use of settlement funds and lands for consistency with its trust responsibility toward the Hawaiian people; and provided further that the audit shall include an assessment of the appropriateness of the director of finance's disbursement of an \$80,000,000, zero-interest loan to the Commission from the state's general fund.

SECTION 195. Provided that expenditure of general fund appropriations for the department of education shall be in compliance with section 302A-1301, Hawaii Revised Statutes, requiring that no less than seventy percent of the total budget of the department, excluding debt service and capital improvement program projects, shall be expended by principals; and provided further that the department's administrative expenditures shall not exceed 6.5 percent of the total department's operating budget.

SECTION 196. Provided that the department of commerce and consumer affairs shall prepare a detailed report on how the department's expenditures will be aligned with its special fund revenue collections; provided further that this report shall include a discussion of plans to lower fees to appropriate levels; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 197. Provided that the office of the auditor shall conduct an in-depth investigation of the department of business, economic development, and tourism with respect to:

- (1) Internal controls over financial reporting and operations;
- (2) Federal grant program management systems, including the community-based economic development program and the reallocation of moneys from the program to support non-CBED purposes;
- (3) Incentive programs, including enterprise zone beneficiaries and the foreign investor program; and
- (4) Reallocation of funds between programs with different revenue sources.

SECTION 198. Provided that in releasing funds for operating program appropriations, the governor shall consider legislative intent and the objectives of the user agency and its programs; the scope and level of the user agency's intended service; and the means, efficiency, and economics by which the appropriation will meet the objectives of the user agency and the State; provided further that agencies responsible shall take into consideration legislative intent, the objectives of the user agency and its programs, and the scope and level of the user agency's intended service, and expend funds to meet the objectives of the user agency in the most efficient and economical manner possible.

SECTION 199. Provided that of the federal fund appropriation for the department of human services, there are appropriated current year and carry-over federal Temporary Assistance for Needy Families (TANF) funds, in the sum of \$142,500,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$138,000,000 or so much thereof as may be necessary for fiscal year 2008-2009; provided further that these sums shall be expended for the implementation of the TANF program, its associated programs, and transfers to other programs; and provided further that any provision to expend funds from the current year or carry-over federal TANF funds shall be construed to be a portion of, and not in addition to, the sums indicated in this section.

SECTION 200. Provided that of the federal fund appropriation for the department of human services, there is appropriated federal Temporary Assistance for Needy Families (TANF) funds in the sum of \$4,358,558 or so much thereof as may be necessary for fiscal year 2007-2008 shall be expended to achieve any one or more of the TANF purposes through purchase of service contracts in the following areas:

- (1) \$224,875 for positive youth development services and outreach to alienated low-income at-risk youth in the Kalihi, Waipahu, Ewa Beach, and Waianae Coast regions of Oahu by implementing a replicable in-community prevention and rehabilitation model that utilizes group therapy;
- (2) \$442,318 for services provided in neighborhood places that promote safe and nurturing environments, culturally sensitive parenting and family development programs and support groups, and family crisis counseling to protect children who are being abused or neglected or at risk of such abuse or neglect on Oahu in Waimanalo, Central Kalihi, and Waianae; on Hawaii in Puna and Kona; on Maui in Wailuku; and on Kaua'i;
- (3) \$250,000 for programs of one-to-one mentoring after school and on weekends by matching caring volunteers to children and youth, largely from single parent households in Honolulu, who are considered at risk and need positive adult role models;
- (4) \$380,000 for positive youth development services in the County of Hawaii to 3rd and 4th graders especially under-achievers and their families with structured extracurricular civic learning activities in an after-school setting;
- (5) \$450,000 for positive youth development programs including life skills training, mediation skills, and tutoring assistance in the after-school hours from 1:40 to 6:00 pm for students in grades 6 through 8 in Kapaa Middle, Chiefess Kamakahahei Middle, and Waimea Canyon schools on Kauai;
- (6) \$120,419 to assist TANF eligible adults to participate in organic micro-enterprise farming using and producing liquid organic fertilizer made from green waste on farms in Waimanalo and elsewhere on Oahu;
- (7) \$348,993 for a one stop center that assists low-income adults and adults transitioning from TANF/Temporary Assistance to Other Needy Families (TAONF) who lack marketable computer and business skills to become employed or establish their own business by bridging economic development with social services approaches and customizing support to each consumer. This one stop center will offer services to remove barriers for success, e.g. domestic violence, child abuse, neglect prevention and treatment, and early childhood education;
- (8) \$150,000 for training stipends, equipment, food supplies and tuition for TANF eligible adults enrolled in culinary training and food service preparation program training sites in Hilo and Captain Cook on the island of Hawaii;
- (9) \$240,000 for a training program for 38 TANF eligible adults to gain employment and economic self-sufficiency by participating in bio-tech tissue culturing projects for bio-diesel, bio-mass, and other agricultural products in the Hilo and lower and upper Puna districts on the island of Hawaii;
- (10) \$644,000 for collaborative transitional living programs offered through agencies accredited by the council on accreditation on services for families and children throughout the state to assist TANF eligible youth

head of households with dependent children who are runaway, homeless and street youth, and youth at risk of homelessness in all counties to enable these youth to learn skills essential for successful independent living;

- (11) \$125,000 to assist TANF eligible families in the communities of Nanakuli and Hilo and on the islands of Maui and Kauai to become successful home owners by providing a comprehensive program of outreach, pre-purchase training including financial literacy, home buyer education, debt reduction, credit repair and household budgeting, counseling and access to mortgage lending;
- (12) \$175,650 to expand programs to address alcohol abuse statewide and strengthen public awareness about underage drinking and impaired driving and to target college age drinkers and the county of Hawaii due to the disproportionate rate of drunk driving crashes and fatalities;
- (13) \$288,468 to expand computer literacy, training, life skills, and tutoring programs after school hours for disadvantaged youth and in the evenings for TANF eligible adults serving native Hawaiian, Pacific Island, and other ethnic groups living in Palolo Valley housing projects;
- (14) \$257,055 to assist at least 40 native Hawaiian TANF eligible families on the Leeward coast to succeed at homeownership by providing classes in home repair, financial literacy and essentials of homeownership, and by providing access to reusable homebuilding materials;
- (15) \$76,780 to assist 300 TANF eligible families on Kauai to rise above the poverty line toward self-sufficiency with outreach and other tax preparation assistance to claim the earned income tax credit;
- (16) \$185,000 to assist TANF eligible families to rise above the poverty line toward self-sufficiency with outreach and other assistance to claim the earned income tax credit by providing free tax assistance on Oahu, Molokai, and the Hilo area of the island of Hawaii utilizing a statewide network of non profit agencies and volunteers;

provided further that the department of human services shall prepare a report that shall include but not be limited to:

- (1) The names of the contracted providers selected to provide the above services;
- (2) Amounts expended to each contracted provider;
- (3) The number of individuals served under each contract; and
- (4) Measures of the benefits achieved under each contract;

and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 201. Provided that of the federal fund appropriation for the department of human services, there is appropriated federal TANF funds in the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for three temporary positions to assist with the administration of the department's TANF program.

SECTION 202. Provided that of the federal fund appropriation for the department of human services, there is appropriated federal TANF funds in the sum of \$9,500,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 that shall be expended for the costs of administering the TANF program.

SECTION 203. Provided that of the federal fund appropriation for the department of human services, there is appropriated federal TANF funds in the sum of \$45,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 that shall be expended to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives, and for associated eligibility determination costs.

SECTION 204. Provided that of the federal fund appropriation for the department of human services, there is appropriated federal TANF funds in the sum of \$38,663,587 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 that shall be expended to obtain work program contracts for TANF and TAONF recipients; to provide support services for TANF and TAONF recipients; and to prevent and reduce the incidence of out-of-wedlock pregnancies and to encourage the formation and maintenance of two-parent families.

SECTION 205. Provided that of the federal fund appropriation for the department of human services, there is appropriated federal TANF funds in the sum of \$7,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 that shall be expended for purchase of service contracts for child protective services.

SECTION 206. Provided that of the federal fund appropriation for the department of human services, there is appropriated federal TANF funds in the sum of \$19,900,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 that shall be transferred to the child care development fund.

SECTION 207. Provided that of the federal fund appropriation for the department of human services, there is appropriated federal TANF funds in the sum of \$9,890,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 that shall be transferred to the social services block grant.

SECTION 208. Provided that of the federal fund appropriation for the department of human services, there is appropriated federal TANF funds in the sum of \$2,088,155 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 that shall be expended for information systems costs related to the TANF program.

SECTION 209. Provided that the department of human services shall prepare a report that shall include, but not be limited to, a detailed financial plan for federal TANF funds that shall encompass the prior two fiscal years, the current fiscal year, and the next four fiscal years; provided further that this plan shall include anticipated expenditures by type and fiscal years, and the balance of funding in the federal TANF reserve fund for each of the fiscal years in the report; and provided further that the department shall submit this report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 210. Provided that the department of human services shall prepare a report on the TANF program that shall include:

- (1) Its outcomes and measures of effectiveness with regards to the TANF program;

- (2) Work participation rates for two-parent families and all families included in calculation of the federal work participation rate; and
- (3) A listing of contracts funded by the TANF program and how these contracts will help the State’s TANF program fulfill federal requirements; and provided further that the department shall submit this report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions.

SECTION 211. Provided that no position funded by federal funds shall be allocated or assigned to any program other than the program for which the federal funds are appropriated.

**PART VIII. MISCELLANEOUS AND EFFECTIVE DATE**

SECTION 212. If any portion of this Act or its application to any person, entity, or circumstance is held to be invalid for any reason, then the legislature 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 expended to fulfill the objective of such appropriation to the extent possible.

SECTION 213. 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 214. Material to be repealed is bracketed and stricken. New material in prior enacted laws is underscored.

SECTION 215. Except for section 88, this Act shall take effect on July 1, 2007. Section 88 of this Act shall take effect on June 15, 2007.

(Approved June 27, 2007.)

**Notes**

- 1. Should be underscored.
- 2. Prior to amendment, “Queen’s” appeared here.
- 3. Prior to amendment, “TRN” also appeared on next line.
- 4. Should probably be “C-117”.
- 5. Prior to amendment, “THE” appeared here.
- 6. So in original.
- 7. Act 76.

**ACT 214**

H.B. NO. 1322

A Bill for an Act Relating to Insurance Licensing.

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

SECTION 1. Section 431:7-101, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

- “(a) The commissioner shall collect in advance the following fees:
  - (1) Certificate of authority: Issuance ..... \$900
  - (2) Organization of domestic insurers and affiliated corporations:
    - (A) Application and all other papers required for issuance of solicitation permit, filing ..... \$1,500
    - (B) Issuance of solicitation permit ..... \$150

- (3) Producer's license:
  - (A) Issuance, regular license ..... \$50
  - (B) Issuance, temporary license ..... \$50
- (4) Nonresident producer's license: Issuance ..... \$75
- (5) Independent adjuster's license: Issuance ..... \$75
- (6) Public adjuster's license: Issuance ..... \$75
- (7) Workers' compensation claim adjuster's limited license:
  - Issuance ..... \$75
- (8) Independent bill reviewer's license: Issuance ..... \$80
- (9) Limited producer's license: Issuance ..... \$60
- (10) Managing general agent's license: Issuance ..... \$75
- (11) Reinsurance intermediary's license: Issuance ..... \$75
- (12) Surplus lines broker's license: Issuance ..... \$150
- (13) Service contract provider's registration: Issuance ..... \$75
- (14) Approved course provider certificate: Issuance ..... \$100
- (15) Approved continuing education course certificate: Issuance ..... \$30
- (16) Vehicle protection product warrantor's registration: Issuance ..... \$75
- (17) Criminal history record check ..... \$20
- (18) Limited line motor vehicle rental company producer's license: Issuance ..... \$1,000
- [148] (19) Examination for license: For each examination, a fee to be established by the commissioner.

(b) The fees for services of the department of commerce and consumer affairs subsequent to the issuance of a certificate of authority, license, or other certificate are as follows:

- (1) \$600 per year for all services (including extension of the certificate of authority) for an authorized insurer;
- (2) \$50 per year for all services (including extension of the license) for a regularly licensed producer;
- (3) \$75 per year for all services (including extension of the license) for a regularly licensed nonresident producer;
- (4) \$45 per year for all services (including extension of the license) for a regularly licensed independent adjuster;
- (5) \$45 per year for all services (including extension of the license) for a regularly licensed public adjuster;
- (6) \$45 per year for all services (including extension of the license) for a workers' compensation claims adjuster's limited license;
- (7) \$60 per year for all services (including extension of the license) for a regularly licensed independent bill reviewer;
- (8) \$45 per year for all services (including extension of the license) for a producer's limited license;
- (9) \$75 per year for all services (including extension of the license) for a regularly licensed managing general agent;
- (10) \$75 per year for all services (including extension of the license) for a regularly licensed reinsurance intermediary;
- (11) \$45 per year for all services (including extension of the license) for a licensed surplus lines broker;
- (12) \$75 per year for all services (including renewal of registration) for a service contract provider;
- (13) \$65 per year for all services (including extension of the certificate) for an approved course provider;
- (14) \$20 per year for all services (including extension of the certificate) for an approved continuing education course;

- (15) \$75 per year for all services (including renewal of registration) for a vehicle protection product warrantor; ~~and~~
- (16) \$20 for a criminal history record check~~[-]; and~~
- (17) \$600 per year for all services (including extension of the license) for a regularly licensed limited line motor vehicle rental company producer.

The services referred to in paragraphs (1) to ~~[(16)]~~ (17) shall not include services in connection with examinations, investigations, hearings, appeals, and deposits with a depository other than the department of commerce and consumer affairs.”

SECTION 2. Section 431:9-228, Hawaii Revised Statutes, is amended to read as follows:

~~“§431:9-228 Place of business. (a) Every licensed adjuster, and independent bill reviewer shall have and maintain in this State a place of business accessible to the public.~~

~~(b)]~~ (a) The place of business of every licensed adjuster and independent bill reviewer shall be ~~[that wherein]~~ the place where the licensee principally conducts transactions under the licensee’s ~~[license.]~~ license.

~~[(e)]~~ (b) The licensee shall promptly notify the commissioner of any change of business address.”

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

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved June 27, 2007.)

## ACT 215

H.B. NO. 1291

A Bill for an Act Relating to the Employees’ Retirement System.

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

SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended by adding to part II a new section to be appropriately designated and to read as follows:

**“§88- Eroneous contributions from compensation of class C members; contributions from overpaid compensation.** Regular interest shall be credited to a class C member on any deductions erroneously made from the compensation of the member and paid into the annuity savings fund. The interest shall continue until the earlier of:

- (1) Refund of the deductions to the member; or
- (2) Return of the deductions to the member’s employer.

The foregoing shall not require the payment of interest on deductions made from any amounts that exceed the compensation to which a member is entitled.”

SECTION 2. Section 88-21, Hawaii Revised Statutes, is amended by amending the definition of “child or children” to read as follows:

““Child or children”:

- (1) A natural child of a member;

- (2) A legally adopted child of a member; or
- (3) A ~~[foster child or]~~ stepchild of a member:
  - (A) Who lives with a member in a regular parent-child relationship; and
  - (B) For whom the member has become the child's legal guardian or has been awarded legal and physical custody of the child pursuant to a valid court order."

SECTION 3. Section 88-29, Hawaii Revised Statutes, is amended to read as follows:

**“§88-29 Officers, employees, legal adviser.** The board ~~[of trustees]~~ shall elect from its membership a chairperson, and by a majority vote of all its members, shall appoint an administrator and a chief investment officer who shall be exempt from chapter 76 and serve under and at the pleasure of the board. ~~[Effective July 1, 1992, the salary]~~ Effective July 1, 2007, the salaries of the administrator and chief investment officer shall be set by the board[; provided that the salary shall be set at not more than the salary of the governor as established under section 26-51]. The board shall engage actuarial and other services as shall be required to transact the business of the system. The compensation for all services engaged by the board, and all other expenses of the board necessary for the operation of the system, shall be paid at rates and in amounts the board shall approve.

The attorney general or an appointed representative may serve as legal adviser to the board ~~[of trustees]~~ or the board ~~[of trustees]~~ may select its own legal counsel.”

SECTION 4. Section 88-51, Hawaii Revised Statutes, is amended to read as follows:

**“§88-51 Membership service generally.** Membership service includes:

- (1) Service by an employee rendered since becoming a member;
- (2) Service rendered prior to becoming a member but~~[:]~~<sup>1</sup> subsequent to:
  - (A) ~~[subsequent to]~~ January 1, 1926, by an employee of the State;<sup>2</sup> or
  - (B) ~~[subsequent to]~~ January 1, 1928, by an employee of any county;
- (3) Service as an employee of the federal government where the function carried on by the federal government has been transferred to the State or any county, or where the employee has been transferred to the federal government and subsequently retransferred to the State or any county;
- (4) Service rendered by an employee in the office of the delegate to Congress from Hawaii, or service rendered by an employee in the office of a representative or a senator to Congress from the State; provided that:
  - (A) ~~[the]~~ The employee was a member of the system immediately preceding the time the employee renders ~~[sueh]~~ the service;
  - (B) ~~[the]~~ The employee reenters the service of the State or county within one year after termination of ~~[sueh]~~ the service; and
  - (C) ~~[the]~~ The employee has, to the satisfaction of the board ~~[of trustees]~~, waived the employee's right to any credit under the Civil Service Retirement Act (5 U.S.C.A. ~~[2251-]~~ Sections 8301 to 8351), as amended, or the Federal Employees Retirement System Act (5 U.S.C.A. Sections 8401 to 8479), as amended, based upon ~~[sueh]~~ the service;

provided further that credit for ~~[sueh]~~ this service shall not exceed eight years;

- (5) Service as an employee of the Hawaii territorial guard;
- (6) Service while engaged in professional improvement pursuant to an approved leave of absence for ~~[such]~~ that purpose, with or without pay;
- (7) Service between the years 1941 and 1947 with federal defense agencies, where the employee was employed by the government before the wartime service, went into defense work at the direction of the employee's employer, and returned to government service at the end of the wartime service; provided that these circumstances shall be verified by evidence satisfactory to the board ~~[of trustees]~~;
- (8) Service, not exceeding four years, in the military service of the United States during the period 1941-1949 rendered by an employee who was employed by the Territory or county prior to the employee's induction into the military and who subsequently returned to employment of the Territory or county following the employee's discharge;
- (9) Service rendered prior to becoming a member as a full-time employee at the Leahi Hospital or Pahala Hospital, now known as Ka'u ~~[General]~~ Hospital, Puunene Hospital, Waimea Hospital, Waimea, Kauai, Haliimaile Dispensary, and Paia Hospital and Pioneer Mill Hospital;
- (10) Service rendered prior to becoming a member as a full-time sheriff or deputy sheriff in the office of the sheriff;
- (11) The period of time when a member was absent from work because of injuries incurred within the scope of the member's employment and who has received workers' compensation benefits prior to July 1, 1967;
- (12) Service rendered as an employee of the legislature during any legislative session;
- (13) Service as a school cafeteria manager or worker if paid by the State regardless of the source of funds from which paid; provided that twelve months' service shall be credited for the time ~~[such a person]~~ the cafeteria manager or worker was working on a ~~[nine-month]~~ nine-month, ten-month, or eleven-month schedule during a school year; and
- (14) Service rendered as a trustee of the office of Hawaiian affairs during the period of July 1, 1993, through June 30, 2002.

Membership service shall only be credited for any period for which the member makes the ~~[required]~~ contributions to the system~~[-]~~ if required by parts II, VII, and VIII of this chapter."

SECTION 5. Section 88-59.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any member who on July 1, 1991, was serving or previously served as an assistant clerk or assistant sergeant at arms of either house of the legislature and becomes eligible for retirement benefits as a class A member as provided under sections 88-73(a), ~~[88-74(4);]~~ 88-74(a)(3), and 88-76 shall be entitled to full service credit as a class A member for any eligible service prior to July 1, 1991; provided that:

- (1) The member claims those years as membership service credit and purchases that membership service credit in accordance with section 88-59; and
- (2) Notwithstanding any other law to the contrary:
  - (A) If the member was a class A member of the system and elected to become a class C member pursuant to section 88-271, the member repurchases all the years of service as a class C member in accordance with the procedures under section 88-59 to regain standing as a contributory member; and

- (B) A class C member shall be credited for service as an assistant clerk or assistant sergeant at arms under section 88-59 in a lump sum nonrefundable payment and receive retirement benefits as provided in this section.”

SECTION 6. Section 88-62, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) If a former member who has less than five years of credited service and who has been out of service for a period of four full calendar years or more after the year in which the former member left service, or if a former member who withdrew the former member’s accumulated contributions returns to service, the former member shall become a member in the same manner and under the same conditions as anyone first entering service; however, the former member may obtain membership service credit in the manner provided by applicable law for credited service that was forfeited by the member upon termination of the member’s previous membership. If the member did not withdraw the former member’s accumulated contributions prior to the former member’s return to service, the accumulated contributions shall be returned to the member as part of the process of enrolling the member in the system if the member’s accumulated contributions are \$1,000 or less at the time of distribution. If the accumulated contributions for the service the member had when the member previously terminated employment are greater than \$1,000 and the member does not make written application, prior to or contemporaneously with the member’s return to service, for return of the accumulated contributions, the member may not withdraw the member’s accumulated contributions, except as provided by section 88-96 or 88-341, until the member retires or attains age sixty-two. The member shall not be entitled to service credit by reason of the system’s retention of the member’s accumulated contributions for the service the member had when the member previously terminated employment.

To be eligible for any benefit, the member shall fulfill the membership service requirements for the benefit through membership service after again becoming a member, in addition to meeting any other eligibility requirement established for the benefit; provided that the membership service requirement shall be exclusive of any former service acquired in accordance with section 88-59 or any other section in ~~[this] part[-]~~ II, VII, or VIII.

(b) If a former member with less than five years of credited service and who did not withdraw [his] the former member’s accumulated contributions returns to service within four full calendar years after the year in which [he] the former member left service, [he] the former member shall again become a member in the same manner and under the same conditions as anyone first entering service, except that [he] the member shall be credited with service credit for the service [he] the member had when [he] the member terminated employment and [his]:

- (1) If the member returns to service as a class A or class B member, the member’s new and previous accumulated contributions shall be combined[-]; or
- (2) If the member returns to service after June 30, 2006, as a class H member, section 88-321(b) shall apply.”

SECTION 7. Section 88-74, Hawaii Revised Statutes, is amended to read as follows:

“**§88-74 Allowance on service retirement.** (a) Upon retirement from service, a member shall receive a maximum 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, excluding any credited service as a judge, elective officer, or legislative officer, 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, plus a retirement allowance of two per cent of the member's average final compensation multiplied by the total number of years of prior credited service as a class H 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 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;
  - (F) After June 30, 1994, if the member has at least ten years of credited service, of which the last five or more years prior to retirement are credited service as a public safety investigations staff investigator;
  - (G) After June 30, 2002, if the member:
    - (i) Has at least ten years of credited service as a firefighter;
    - (ii) Is deemed permanently medically disqualified due to a service related disability to be a firefighter by the employer's physician; and
    - (iii) Continues employment in a class A or B position other than a firefighter; and
  - (H) After June 30, 2004, if the member:
    - (i) Has at least ten years of credited service as a police officer;
    - (ii) Is deemed permanently medically disqualified due to a service related disability to be a police officer by the employer's physician; and
    - (iii) Continues employment in a class A or B position other than a police 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, 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 a refund as permitted by section 88-72, the member may accept the 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;] for age as provided in subsection (b);~~
- (3) (2) If the member has credited service as a judge, the member's retirement allowance shall be computed on the following basis:
- (A) For a member who has credited service as a judge before July 1, 1999, irrespective of age, for each year of credited service as a judge, 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 a member who first earned credited service as a judge after June 30, 1999, for each year of credited service as a judge, 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. 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;] for age as provided in subsection (b); or~~
  - (C) For a judge with other credited service, as provided in ~~[paragraphs] paragraph (1) [and (2)].~~ 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;] for age as provided in subsection (b); or~~
  - (D) For a judge with credited service as an elective officer or as a legislative officer, as provided in paragraph ~~[(4)-] (3).~~

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 subparagraphs (A) and (B) and the portion of the accumulated contributions specified in the subparagraphs in excess of the requirements of the reduced annuity shall be returned to the member~~[-]~~ upon the member's retirement or paid to the member's designated beneficiary upon the member's death while in service or while on authorized leave without pay. 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; or

- [(4)] (3) If the member has credited service as an elective officer or as a legislative officer, the member's retirement allowance shall be derived by adding the allowances computed separately under subparagraphs (A), (B), (C), and (D) as follows:
- (A) Irrespective of age, for each year of credited service as an elective officer, three and one-half per cent of the member's average final compensation as computed under section 88-81(e)(1), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service; and
  - (B) Irrespective of age, for each year of credited service as a legislative officer, three and one-half per cent of the member's average final compensation as computed under section 88-81(e)(2), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of service;
  - (C) If the member has credited service as a judge, the member's retirement allowance shall be computed on the following basis:
    - (i) For a member who has credited service as a judge before July 1, 1999, irrespective of age, for each year of credited service as a judge, three and one-half per cent of the member's average final compensation as computed under section 88-81(e)(3), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of [sueh] service; and
    - (ii) For a member who first earned credited service as a judge after June 30, 1999, and has attained the age of fifty-five, for each year of credited service as a judge, three and one-half per cent of the member's average final compensation as computed under section 88-81(e)(3), in addition to an annuity that is the actuarial equivalent of the member's accumulated contributions allocable to the period of [sueh] service. 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;~~] for age as provided in subsection (b); and
  - (D) For each year of credited service not included in subparagraph (A), (B), or (C), the average final compensation as computed under section 88-81(e)(4) shall be multiplied by two per cent for credited service earned as a class A or class H member, two and one-half per cent for credited service earned as a class B member, and one and one-quarter per cent for credited service earned as a class C member. 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.~~] for age as provided in subsection (b).

The total retirement allowance shall not exceed seventy-five per cent of the member's highest average final compensation calculated under section 88-81(e)(1), (2), (3), or (4). If the allowance exceeds this limit,

it shall be adjusted by reducing any annuity accrued under subparagraphs (A), (B), and (C) and the portion of the accumulated contributions specified in these subparagraphs in excess of the requirements of the reduced annuity shall be returned to the member~~[-]~~ upon the member's retirement or paid to the member's designated beneficiary upon the member's death while in service or while on authorized leave without pay. If a member has service credit as an elective officer or as a legislative officer in addition to service credit as a judge, then the retirement benefit calculation contained in this paragraph shall supersede the formula contained in paragraph ~~[(3)-]~~ (2).

(b) Except as provided in subsection (a), if a member has not attained age fifty-five at the date of retirement, the member's retirement allowance shall be reduced, for each month the member's age at the date of retirement is below age fifty-five, as follows:

- (1) 0.4166 per cent for each month below age fifty-five and above age forty-nine and eleven months; plus
- (2) 0.3333 per cent for each month below age fifty and above age forty-four and eleven months; plus
- (3) 0.2500 per cent for each month below age forty-five and above age thirty-nine and eleven months; plus
- (4) 0.1666 per cent for each month below age forty;

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 these capacities."

SECTION 8. Section 88-74.6, Hawaii Revised Statutes, is amended to read as follows:

**"~~[[~~§88-74.6~~]]~~ Unreduced allowance on service retirement; when applicable.** In addition to those positions identified in section ~~[88-74(1),]~~ 88-74(b) and notwithstanding any law in this part that requires a member to attain age fifty-five to qualify for an unreduced service retirement allowance, if the member has at least thirty years of credited service through June 30, 2003; twenty-nine years of credited service on or after July 1, 2004; twenty-eight years of credited service on or after July 1, 2005; twenty-seven years of credited service on or after July 1, 2006; twenty-six years of credited service on or after July 1, 2007; and twenty-five years of credited service on or after July 1, 2008, as an emergency medical technician, of which the last five or more years prior to retirement is credited service in that capacity, then upon retirement and irrespective of age, that member's service retirement allowance shall not be reduced for actuarial purposes."

SECTION 9. Section 88-76, Hawaii Revised Statutes, is amended to read as follows:

**"§88-76 Allowance on ordinary disability retirement.** Upon retirement for ordinary disability, a member shall receive a maximum retirement allowance of one and three-fourths per cent of the member's average final compensation for each year of credited service; except that for each year of credited service as a judge, an elective officer, or a legislative officer, the member shall receive a maximum retirement allowance computed as provided in section ~~[88-74(3)-or (4),]~~ 88-74(a)(2)

or (3), as applicable. The minimum retirement allowance payable under this section shall be thirty per cent of the member's average final compensation."

SECTION 10. Section 88-79, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Upon application of a member, or the person appointed by the family court as guardian of an incapacitated member, any member who has been permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no wilful negligence on the member's part, may be retired by the board [~~of trustees~~] for service-connected disability; provided that:

- (1) In the case of an accident occurring after July 1, 1963, the employer shall file with the [~~board~~] system a copy of the employer's report of the accident submitted to the director of labor and industrial relations;
- (2) An application for retirement is filed with the [~~board~~] system within two years of the date of the accident, or the date upon which workers' compensation benefits cease, whichever is later;
- (3) Certification is made by the head of the agency in which the member is employed, stating the time, place, and conditions of the service performed by the member resulting in the member's disability and that the disability was not the result of wilful negligence on the part of the member; and
- (4) The medical board certifies that the member is incapacitated for the further performance of duty at the time of application and that the member's incapacity is likely to be permanent."

SECTION 11. Section 88-81, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Average final compensation is the average annual compensation pay or salary upon which a member has made contributions as required by [~~sections 88-45 and 88-46.~~] parts II, VII, and VIII of this chapter."

SECTION 12. Section 88-81.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Effective July 1, 1996, compensation used to determine "average final compensation" under section 88-81 and employee contributions picked up by the employer under section 88-46[;] or 88-326, shall be subject to the annual limit set forth in section 401(a)(17) of the Internal Revenue Code of 1986, as amended."

SECTION 13. Section 88-83, Hawaii Revised Statutes, is amended to read as follows:

**§88-83 Election of retirement allowance option.** (a) Upon retirement, any member may elect to receive the maximum retirement allowance to which the member is entitled computed in accordance with section 88-74, 88-76, or 88-80, and in the event of the [~~member's~~] retirant's death, there shall be paid to the [~~member's~~] retirant's designated beneficiary, or otherwise to the [~~member's~~] retirant's estate[;] the difference between [~~the~~];

- (1) The balance of the member's accumulated contributions at the time of the member's retirement; and [the]

- (2) The retirement allowance and, if the retirant retired after November 30, 2004, the post retirement allowances paid or payable to the [member] retirant prior to death.

In lieu of this maximum allowance, the member may elect to receive the member's retirement allowance under any one of the optional plans described below, which shall be actuarially equivalent to the maximum allowance.

Option 1: The member may elect to receive a lesser retirement allowance during the member's lifetime. At the member's retirement, there shall be established an amount of initial insurance that shall be computed on the basis of actuarial factors adopted by the board. Upon the death of the retirant, there shall be paid to the retirant's designated beneficiary, otherwise to the retirant's estate: any balance remaining in the initial insurance reserve, after deducting the retirement allowance and, if the retirant retired after November 30, 2004, the post retirement allowances paid to the retirant prior to death~~[, shall be paid to the retirant's beneficiary, otherwise to the retirant's estate]~~. In lieu of the lump sum balance, the beneficiary may, if the beneficiary is a natural person, elect to receive an allowance for life based on the value of the balance; provided that the allowance is not less than \$100 per month. If the beneficiary of the retirant who:

- (1) Retired after November 30, 2004, and
- (2) Dies after June 30, 2007,

elects to receive the allowance in lieu of the lump sum balance, there shall also be payable to the beneficiary an additional allowance calculated and payable in the same manner as a post retirement allowance under section 88-90. The additional allowance shall be based on the original amount of the allowance in lieu of the lump sum balance, and shall commence on the first day of July following the calendar year in which payment of the allowance in lieu of the lump sum balance is effective.

Option 2: The member may elect to receive a lesser retirement allowance during the member's lifetime and have those allowances, including cumulative post retirement allowances, if applicable, continued after the member's death to the member's beneficiary designated at the time of the member's retirement, for the life of the beneficiary. If the beneficiary dies prior to the retirant, all further payments shall cease upon the death of the retirant; provided that for members retiring after November 30, 2004, if the retirant's designated beneficiary dies at any time after the retirant retired, but before the death of the retirant, the retirant, upon the death of the retirant's designated beneficiary, shall receive a retirement allowance, including cumulative post retirement allowances, calculated as if the retirant had selected the maximum retirement allowance to which the [member] retirant is entitled. Only one beneficiary shall be designated under this option. The beneficiary designated under this option shall be a natural person, and benefits under this option shall only be paid to a natural person.

Option 3: The member may elect to receive a lesser retirement allowance during the member's lifetime and have one-half of the allowance, including fifty per cent of all cumulative post retirement allowances, if applicable, continued after the member's death to the member's beneficiary designated at the time of the member's retirement, for the life of the beneficiary. If the beneficiary dies prior to the retirant, all further payments shall cease upon the death of the retirant; provided that for members retiring after November 30, 2004, if the retirant's designated beneficiary dies at any time after the retirant retired, but before the death of the retirant, the retirant, upon the death of the retirant's designated beneficiary, shall receive a retirement allowance, including cumulative post retirement allowances, calculated as if the retirant had selected the maximum retirement allowance to which the [member] retirant is entitled. Only one beneficiary shall be designated under this option. The beneficiary designated under this option shall be a natural person, and benefits under this option shall only be paid to a natural person.

Option 4: The member may elect to receive a lesser retirement allowance during the member's lifetime and provide some other benefit to the member's beneficiary in accordance with the member's own specification; provided that this election shall be certified by the actuary to be the actuarial equivalent of the member's retirement allowance and shall be approved by the board.

Option 5: The member may elect to receive the balance of the member's accumulated contributions at the time of retirement in a lump sum and, during the member's lifetime, a retirement allowance equal to the maximum retirement allowance reduced by the actuarial equivalent of these contributions. Upon the death of the retirant, all further payments shall cease. Only a member retiring from service having at least ten years of credited service or for disability may elect this retirement allowance option.

To receive benefits, the beneficiary must have been designated by the member in the form and manner prescribed by the board.

(b) In the event of the death of a member after the date of the filing of the member's written application to retire<sup>[5]</sup> but prior to the retirement date designated by the member, and, if the member was eligible to retire on the date of the member's death, the member's designated beneficiary, or otherwise the personal representative of the member's estate, may elect to receive either the death [benefits] benefit under section 88-84 or the allowance under the option selected by the member that would have been payable had the member retired. The effective date of the member's retirement shall be the first day of a month, except for the month of December when the effective date of retirement may be on the first or last day of the month, and shall be no earlier than the later of thirty days from the date the member's retirement application was filed or the day following the member's date of death. The election may not be made if, at the time of the member's death, there are individuals who are eligible to receive death benefits under section 88-85 who have made a claim for the benefits; provided that, if the designated beneficiary is an individual eligible to receive benefits under section 88-85, the designated beneficiary may receive benefits pursuant to an election made under this section pending disposition of the claim for benefits under section 88-85. If death benefits are payable under section 88-85, the death benefits shall be in lieu of any benefits payable pursuant to this section.

(c) No election by a member under this section shall take effect unless:

- (1) The spouse or reciprocal beneficiary of the member is furnished written notification that:
  - (A) Specifies the retirement date, the benefit option selected, and the beneficiary designated by the member;
  - (B) Provides information indicating the effect of the election; and
  - (C) Is determined adequate by rules ~~established~~ adopted by the board ~~[pursuant to]~~ in accordance with chapter 91;
- (2) The member selects option 2 or option 3 and designates the spouse or reciprocal beneficiary as the beneficiary; or
- (3) It is established to the satisfaction of the board that the notice required under paragraph (1) cannot be provided because:
  - (A) There is no spouse or reciprocal beneficiary;
  - (B) The spouse or reciprocal beneficiary cannot be located;
  - (C) The member has failed to notify the system that the member has a spouse or reciprocal beneficiary, or has failed to provide the system with the name and address of the member's spouse or reciprocal beneficiary; or
  - (D) Of other reasons, as established by ~~[rules of the]~~ board ~~[pursuant to]~~ rules adopted in accordance with chapter 91.

Any notice provided to a spouse or reciprocal beneficiary, or determination that the notification of a spouse or reciprocal beneficiary cannot

be provided, shall be effective only with respect to that spouse or reciprocal beneficiary. The system will rely upon the representations made by a member as to whether the member has a spouse or reciprocal beneficiary and the name and address of the member's spouse or reciprocal beneficiary.

(d) Each member, within a reasonable period of time before the member's retirement date, shall be provided a written explanation of:

- (1) The terms and conditions of the various benefit options;
- (2) The rights of the member's spouse or reciprocal beneficiary under subsection (c) to be notified of the member's election of a benefit option; and
- (3) The member's right to make, and the effect of, a revocation of an election of a benefit option.

(e) The system shall not be liable for any false statements made to the system by the member or by the member's employer.

(f) In the event of the death of the retirant within one year after the date of retirement, the retirant's designated beneficiary may elect to receive either the death benefit under the retirement allowance option selected by the retirant, or the ~~[benefits as]~~ benefit that would have been paid under section 88-84 had the retirant died immediately prior to retirement, less any payments [which the retirant] received[-] by the retirant; provided that the designated beneficiary may not elect to receive benefits under option 2 of this section if the retirant would not have been permitted by applicable law or by the rules of the board to name the designated beneficiary as beneficiary under option 2.

(g) The increase in the retirant's benefit under options 2, 3, and, if applicable, 4 upon the death of the retirant's designated beneficiary shall be effective the first day of the month following the date of death of the designated beneficiary. The retirant shall notify the system in writing and provide a certified copy of the beneficiary's death certificate. The system shall make retroactive benefit payments to the retirant, not to exceed six months from the date the written notification and the certified copy of the death certificate are received by the system. The retroactive payments shall be without interest.

(h) Upon a member's retirement:

- (1) The member's election of a retirement allowance option shall be irrevocable; and
- (2) The member's designation of a beneficiary shall be irrevocable if the retirement allowance option elected by the member is:
  - (A) Option 2 or 3;
  - (B) An option that includes option 2 or 3 in combination with some other form of benefit payment; or
  - (C) Any other option for which the actuarial equivalent of the option to the maximum retirement allowance is determined at the time of the member's retirement based in whole or in part on the age of the member's designated beneficiary.

(i) A claim under this section by a retirant's or member's beneficiary for benefits upon the death of a retirant or member shall be filed no later than three years from the date of the retirant's or member's death.'

SECTION 14. Section 88-84, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Upon receipt by the system of proper proof of a member's death occurring in service or while on authorized leave without pay, 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, 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;
- (2) If the member had ten or more years of credited service 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 as if the member had retired on the first day of a month following the member's death, except for the month of December when retirement on the first or last day of the month shall be allowed. Benefits payable under this paragraph shall be calculated under option 3 of section 88-83 and computed on the basis of section ~~[88-76;]~~ 88-74, unreduced for age; or
- (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 payment provided in this section, the allowance that would have been payable as if the member had retired on the first day of a month following the member's death, except for the month of December when retirement on the first or last day of the month shall be allowed. Benefits payable under this paragraph shall be calculated under option 2 of section 88-83~~[-]~~ and computed on the basis of section 88-74."

SECTION 15. Section 88-90.5, Hawaii Revised Statutes, is amended to read as follows:

~~“[§88-90.5]~~ **Actuarial assumptions.** (a) Notwithstanding any provision in ~~[chapter 88]~~ this chapter to the contrary, the board ~~[of trustees]~~ may approve the effect of the post retirement allowance under section 88-90, or of any other mandatory fixed scheduled increase in the benefits payable under part II, VII, or VIII, as an actuarial assumption for the purpose of determining the value of the options available under sections 88-83, 88-283, and 88-333.

(b) Subject to the recommendation of the actuary appointed under section 88-29, the board may adopt, by motion at any duly noticed meeting of the board, actuarial tables, factors, and assumptions for the purposes of parts II, VII, and VIII. The tables, factors, and assumptions that are used to compute benefits shall be in writing and certified by the administrator."

SECTION 16. Section 88-93, Hawaii Revised Statutes, is amended to read as follows:

~~“§88-93 Named beneficiaries by members and by former employees; [with vested benefit status;] effect of marriage, entry into reciprocal beneficiary relationship, divorce, termination of reciprocal beneficiary relationship, or death.~~ (a) All written designations of beneficiaries for members and for former employees ~~[with vested benefit status]~~ shall become null and void when:

- (1) The beneficiary predeceases the member or former employee;

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- (2) The member or former employee is divorced from the beneficiary;
- (3) The member or former employee is unmarried, and subsequently marries; or
- (4) The member or former employee enters into or terminates a reciprocal beneficiary relationship.

Any of the above events shall operate as a complete revocation of the designation and, except as provided in sections 88-84(b) and [88-333(b);] 88-338(b) all benefits payable by reason of the death of the member or former employee shall be payable to the member's or former employee's estate unless, after the death, divorce or marriage, or entry into or termination of reciprocal beneficiary relationship, the member or former employee makes other provision in a written designation duly executed and filed with the board.

(b) Subsection (a) shall not apply to active members who are former retirees who have returned to service. The beneficiaries of retirees who return to service may not be changed except to the extent provided under the retirement allowance option selected by the former retiree when the former retiree first retired."

SECTION 17. Section 88-98, Hawaii Revised Statutes, is amended to read as follows:

**“§88-98 Return to service of a retiree. (a)** Any retiree who returns to employment requiring active membership in the system shall be reenrolled as an active member of the system in the same class from which the retiree originally retired and the retiree's retirement allowance shall be suspended.

- (1) If the retiree returns to service before July 1, 1998, and again retires, the retiree's retirement allowance shall consist of:
  - (A) For members with fewer than three years of credited service during the member's period of reemployment, the allowance to which the member was entitled under the retirement allowance option selected when the member previously retired and which was suspended; plus, for the period of service during the member's reemployment, the allowance to which the member is entitled for that service based on the retirement allowance option initially selected and computed for the member's age, average final compensation, and other factors in accordance with the benefit formula under section 88-74 in existence at the time of the member's latest retirement; or
  - (B) For members with three or more years of credited service during the member's period of reemployment, the allowance computed as if the member were retiring for the first time; provided that in no event shall the allowance be less than the amount determined in accordance with subparagraph (A); and
- (2) If the retiree returns to service after June 30, 1998, and again retires, the retiree's retirement allowance shall be computed in accordance with paragraph (1)(A), regardless of the number of years of service in the reemployment period.

(b) Any retiree who received the special retirement incentive benefit under Act 253, Session Laws of Hawaii 2000, as amended by Act 131, Session Laws of Hawaii 2002, and is reemployed by the State or a county in any capacity shall:

- (1) Have the retiree's retirement allowance suspended;
- (2) Forfeit the special retirement incentive benefit and any related benefit provided by [chapter 88;] this chapter; and
- (3) Be subject to the age and service requirements under section 88-73 when the member again retires.

(c) If a retirant's designation of beneficiary was irrevocable upon the retirant's initial retirement, the retirant may not change the retirant's designated beneficiary when the retirant returns to service or when the former retirant again retires.

(d) A retirant who returns to service shall not be considered to be "in service", for the purposes of section 88-75, 88-79, 88-84, or 88-85, or any other provision of this chapter providing for benefits arising out of the disability or death of a member. A retirant who returns to service and dies during the period of reemployment shall be considered to have retired again effective as of the first day of the month following the month in which the death occurs, except for death during the month of December when the effective date of retirement may be the last day of the month.

~~[(d)]~~ (e) The board shall adopt any rules as may be required to administer [the purposes of] this section."

SECTION 18. Section 88-251, Hawaii Revised Statutes, is amended to read as follows:

**"§88-251 Applicability.** The following provisions of part II shall apply to this part:

- (1) Subpart A, except the definitions provided in section 88-21, unless expressly adopted in section 88-261;
- (2) Subpart B, except sections 88-45, 88-45.5, 88-46, 88-48, 88-52, 88-59, 88-59.5, 88-59.6, 88-61, and 88-62;
- (3) Subpart C, except sections 88-71, 88-72, 88-73, 88-74, 88-74.6, 88-75, 88-76, [88-79,] 88-80, 88-83, 88-84, 88-85, 88-87, 88-88, [88-89,] 88-96, 88-97, and 88-98;
- (4) Subpart D, except sections 88-112 and 88-113; and
- (5) Subpart E."

SECTION 19. Section 88-273, Hawaii Revised Statutes, is amended to read as follows:

**"§88-273 Break in service; reemployment.** (a) Any class C member who terminates service prior to accumulating ten years of credited service, excluding unused sick leave, shall cease to be a member and shall forfeit all credited service; provided that:

- (1) If the former class C member becomes a member again within one calendar year from the date of termination, all service credit for previous service shall be restored. If the former class C member becomes a member again more than one calendar year after the date of termination, one month of service credit for previous service shall be restored for each month of service rendered following the return to membership.
- (2) If the former class C member becomes a class A, class B, or class H member within one calendar year from the date of termination, all class C service credit for previous service shall be restored. If the former class C member becomes a class A, class B, or class H member more than one calendar year after the date of termination, one month of class C service credit for previous service shall be restored for each month of service rendered following the return to membership.

Subject to the provisions of sections 88-322 and 88-324, the service credit restored pursuant to this subsection shall be class C service credit.

(b) Any class C member who terminates service with a vested right and who subsequently becomes a class A, class B, class C, or class H member shall retain all

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service credit for previous service and shall be credited with additional service credit for service rendered following the return to membership.

(c) Any retirant who retired under the provisions of ~~[part VII of this chapter]~~ this part and returns to service requiring active membership in the system as a class C member shall be reenrolled as an active member, and the retirant's retirement allowance shall be suspended. When the member again retires, the retirement allowance shall be the allowance to which the member was entitled under the retirement allowance option selected when the member previously retired and which was suspended; plus, for the period of service during the member's reemployment, the allowance to which the member is entitled for that service based on the retirement allowance option initially selected and computed for the member's age, average final compensation, and other factors in accordance with the benefit formula of a class C member under section 88-282 in existence at the time of the member's final retirement. ~~[If the member's designation of beneficiary was irrevocable upon the member's initial retirement, the member may not change the member's designated beneficiary when the member returns to service or when the member again retires.]~~

(d) Any retirant who retired under the provisions of [part VII] this part and returns to service requiring active membership in the system as a class A or class B member shall be reenrolled as an active member, and the retirant's retirement allowance shall be suspended. When the member again retires, the retirement allowance shall be the allowance to which the member was entitled under the retirement allowance option selected when the member previously retired and which was suspended; plus, for the period of service during the member's reemployment, the allowance to which the member is entitled for that service based on the retirement allowance option initially selected and computed for the member's age, average final compensation, and other factors in accordance with the benefit formula of a class A or class B member under section 88-74 in existence at the time of the member's final retirement. ~~[If the member's designation of beneficiary was irrevocable upon the member's initial retirement, the member may not change the member designated beneficiary when the member returns to service or when the member again retires.]~~

(e) Any retirant who received the special retirement incentive benefit under Act 253, Session Laws of Hawaii 2000, as amended by Act 131, Session Laws of Hawaii 2002, and is reemployed by the State or a county in any capacity shall:

- (1) Have the retirant's retirement allowance suspended;
- (2) Forfeit the special retirement incentive benefit and any other related benefit provided by ~~[chapter 88:]~~ this chapter; and
- (3) Be subject to the age and service requirements under section 88-281 when the member again retires.

(f) If a retirant's designation of beneficiary was irrevocable upon the retirant's initial retirement, the retirant may not change the retirant's designated beneficiary when the retirant returns to service or when the former retirant again retires.

(g) A retirant who returns to service shall not be considered to be "in service", for the purposes of section 88-284, 88-285, or 88-286, or any other provision of this chapter providing for benefits arising out of the disability or death of a member. A retirant who returns to service and dies during the period of reemployment shall be considered to have retired again effective as of the first day of the month following the month in which the death occurs, except for death during the month of December when the effective date of retirement may be the last day of the month.

(h) The board shall adopt any rules as may be required to administer this section."

SECTION 20. Section 88-283, Hawaii Revised Statutes, is amended to read as follows:

“**§88-283 Election of retirement allowance option.** (a) Upon retirement, any member may elect to receive the maximum retirement allowance to which the member is entitled, computed in accordance with section 88-282, 88-284, or 88-285, and, if the member elects to receive the maximum retirement allowance, the member’s beneficiary shall not be entitled to any benefit upon the member’s death, except as provided in subsection (g). In lieu of the maximum retirement allowance, a member may elect to receive the member’s retirement allowance under one of the options described below, which shall be actuarially equivalent to the maximum retirement allowance:

- (1) Option A: A reduced allowance payable to the member, then upon the member’s death, one-half of the allowance, including fifty per cent of all cumulative post retirement allowances, to the member’s beneficiary designated by the member at the time of retirement, for the life of the beneficiary[;]. If the beneficiary dies prior to the retirant, all further payments shall cease upon the death of the retirant; provided that for members retiring after November 30, 2004, if the retirant’s designated beneficiary dies at any time after the retirant retired, but before the death of the retirant, the retirant, upon the death of the retirant’s designated beneficiary, shall receive a retirement allowance, including cumulative post retirement allowances, calculated as if the retirant had selected the maximum retirement allowance to which the retirant is entitled;
- (2) Option B: A reduced allowance payable to the member, then upon the member’s death, the same allowance, including cumulative post retirement allowances, paid to the member’s beneficiary designated by the member at the time of retirement, for the life of the beneficiary[;]. If the beneficiary dies prior to the retirant, all further payments shall cease upon the death of the retirant; provided that for members retiring after November 30, 2004, if the retirant’s designated beneficiary dies at any time after the retirant retired, but before the death of the retirant, the retirant, upon the death of the retirant’s designated beneficiary, shall receive a retirement allowance, including cumulative post retirement allowances, calculated as if the retirant had selected the maximum retirement allowance to which the retirant is entitled; or
- (3) Option C: A reduced allowance payable to the member, and [~~if the member dies~~] upon the death of the retirant within ten years of retirement, the same allowance, including cumulative post retirement allowances, paid to the [~~member’s~~] retirant’s designated beneficiary, or otherwise to the retirant’s estate for the balance of the ten-year period. If the retirant returns to service requiring active membership in the system and the retirant is reenrolled as an active member, running of the ten-year period will be suspended until the member again retires.

Only one beneficiary shall be designated under options A [~~and~~], B[;], and C. The beneficiary designated under option A or B shall be a natural person, and benefits under option A or B shall only be paid to a natural person. To receive benefits, the beneficiary shall have been designated by the member in the form and manner prescribed by the board.

(b) Upon a member’s retirement:

- (1) The member’s election of a retirement allowance option shall be irrevocable; and

- (2) The member's designation of a beneficiary shall be irrevocable if the retirement allowance option elected by the member is option A or B.
- (c) No election by a member under this section shall take effect unless:
  - (1) The spouse or reciprocal beneficiary of the member is furnished written notification that:
    - (A) Specifies the retirement date, the benefit option selected, and the beneficiary designated by the member;
    - (B) Provides information indicating the effect of the election; and
    - (C) Is determined adequate by rules [established] adopted by the board [~~pursuant to~~] in accordance with chapter 91; [~~or~~]
  - (2) The member selects option A or option B and designates the spouse or reciprocal beneficiary as the beneficiary; or
  - (3) It is established to the satisfaction of the board that the notice required under paragraph (1) cannot be provided because:
    - (A) There is no spouse or reciprocal beneficiary;
    - (B) The spouse or reciprocal beneficiary cannot be located;
    - (C) The member has failed to notify the system that the member has a spouse or reciprocal beneficiary, or has failed to provide the system with the name and address of the member's spouse or reciprocal beneficiary; or
    - (D) Of other reasons, as established by [~~rules of the~~] board [~~pursuant to~~] rules adopted in accordance with chapter 91.

Any notice provided to a spouse or reciprocal beneficiary, or determination that the notification of a spouse or reciprocal beneficiary cannot be provided, shall be effective only with respect to that spouse or reciprocal beneficiary. The system shall rely upon the representations made by a member as to whether the member has a spouse or reciprocal beneficiary and the name and address of the member's spouse or reciprocal beneficiary.

- (d) Each member, within a reasonable period of time before the member's retirement date, shall be provided a written explanation of:
  - (1) The terms and conditions of the various benefit options;
  - (2) The rights of the member's spouse or reciprocal beneficiary under subsection (c) to be notified of the member's election of a benefit option; and
  - (3) The member's right to make, and the effect of, a revocation of an election of a benefit option.
- (e) The system shall not be liable for any false statements made to the system by the member or by the member's employer.
- (f) If a member dies after the date of the filing of the member's written application to retire, but prior to the retirement date designated by the member, and, if the member was eligible to retire on the date of the member's death, the member's designated beneficiary may elect to receive either:
  - (1) An allowance that would have been payable if the member had retired and had elected to receive a retirement allowance under option B; or
  - (2) The allowance under the option selected by the member which would have been payable had the member retired.

The effective date of the member's retirement shall be the first day of a month, except for the month of December when the effective date of retirement may be on the first or last day of the month, and shall be no earlier than the later of thirty days from the date the member's retirement application was filed or the day following the member's date of death. The election may not be made if, at the time of the member's death, there are individuals who are eligible to receive death benefits under section 88-286(c) who have made a claim for the benefits; provided that, if the

designated beneficiary is an individual eligible to receive benefits under section 88-286(c), the designated beneficiary may receive benefits pursuant to an election made under this section pending disposition of the claim for benefits under section 88-286(c). ~~[No death benefits will be payable under section 88-286(e) while benefits are paid pursuant to an election made under this section.]~~ If death benefits are payable under section 88-286(c), the death benefits shall be in lieu of any benefits payable pursuant to this section.

(g) If the retirant dies within one year after the date of retirement, the retirant's designated beneficiary may elect to receive either:

- (1) The death benefit under the retirement allowance option selected by the retirant; or
- (2) The death benefit under option B; provided that the difference between the benefit that the retirant received and the benefit that would have been payable to the retirant had the retirant elected to receive a retirement allowance under option B shall be returned to the system.; less the difference between the benefit that the retirant received and the benefit that would have been payable to the retirant had the retirant elected to receive a retirement allowance under option B; provided that if the retirant would not have been permitted by applicable law or the rules of the board to name the designated beneficiary as beneficiary under option B, the designated beneficiary may elect to receive the death benefit under option A, less the difference between the benefit that the retirant received and the benefit that would have been payable to the retirant had the retirant elected to receive a retirement allowance under option A.

(h) The increase in the retirant's benefit under options A and B upon the death of the retirant's designated beneficiary shall be effective the first day of the month following the date of death of the designated beneficiary. The retirant shall notify the system in writing and provide a certified copy of the beneficiary's death certificate. The system shall make retroactive benefit payments to the retirant, not to exceed six months from the date the written notification and the certified copy of the death certificate are received by the system. The retroactive payments shall be without interest.

(i) A claim under this section by a retirant's or member's beneficiary for benefits upon the death of a retirant or member shall be filed no later than three years from the date of the retirant's or member's death."

SECTION 21. Section 88-301, Hawaii Revised Statutes, is amended to read as follows:

**“§88-301 Applicability.** The following provisions of part II of this chapter shall apply to this part:

- (1) Subpart A;
- (2) Subpart B, except sections 88-45, 88-46, 88-48, 88-52, 88-59, 88-59.5, 88-59.6, 88-61, and 88-62;
- (3) Subpart C, except sections 88-71, 88-72, 88-73, 88-74, 88-74.6, 88-75, 88-76, 88-79, 88-80, 88-83, 88-84, 88-85, 88-88, [88-89,] 88-96, 88-97, and 88-98;
- (4) Subpart D; and
- (5) Subpart E.”

SECTION 22. Section 88-322, Hawaii Revised Statutes, is amended as follows:

- (1) By amending subsection (b) to read as follows:

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“(b) All class A and class B credited service of class A or class B members who make the election to become class H members pursuant to section 88-321(a) shall be converted to class H credited service. The cost of the conversion of class A or class B credited service shall be the member’s accumulated contributions as of the date of conversion. Verified membership service credit paid for pursuant to section 88-59 under an irrevocable payroll authorization entered into prior to July 1, 2006, shall be credited as class H credited service. Class A and class B members who are in service on June 30, 2006, and make the election to become class H members pursuant to section 88-321(a) shall have the option to convert some or all of their class C credited service, as of June 30, 2006, to class H credited service by paying, in the manner provided in subsection (d), the full actuarial cost of the conversion as of [June 30, 2006.] the last day of the sixth calendar month preceding the date of the notice described in subsection (e). The option to convert class C credited service to class H credited service shall also apply:

- (1) To forfeited credit for previous service that a member is eligible to have restored as of June 30, 2006; and
- (2) To membership service credit that a member is eligible to claim under section 88-272(4) to (6) as of June 30, 2006;

provided that the member shall claim the forfeited service credit and the membership service credit by the date established by the board at a meeting held pursuant to chapter 92.”

- (2) By amending subsection (f) to read as follows:

“(f) The actuarial cost of converting a member’s class C credited service to class H credited service under subsections (a) and (b) shall be based on the member’s actual age in full years as of [June 30, 2006,] the last day of the sixth calendar month preceding the date of the notice described in subsection (e), and on the member’s monthly base salary or monthly basic rate of pay as of [June 30, 2006,] the last day of the sixth calendar month preceding the date of the notice described in subsection (e), exclusive of overtime, differentials, supplementary payments, bonuses, and salary supplements, but including elective salary reduction contributions under sections 125, 403(b), and 457(b) of the Internal Revenue Code of 1986, as amended.”

SECTION 23. Section 88-333, Hawaii Revised Statutes, is amended to read as follows:

- “**§88-333 Election of retirement allowance option.** (a) Upon retirement:
- (1) Any class H member may elect to receive the maximum retirement allowance to which the member is entitled, computed in accordance with the provisions described under section 88-332, 88-335, or 88-337, and if the member elects to receive the maximum retirement allowance, in the event of the [member’s] retirant’s death, there shall be paid to the [member’s] retirant’s designated beneficiary, or otherwise to the [member’s] the retirant’s estate, the difference between [the]:
    - (A) The balance of the member’s accumulated contributions at the time of the member’s retirement; and [the]
    - (B) The retirement allowance and the post retirement allowances paid or payable to the [member] retirant prior to death; or
  - (2) In lieu of the maximum allowance to which the member is entitled, computed in accordance with the provisions described under section 88-332, 88-335, or 88-337, the member may elect to receive the member’s retirement allowance under any one of the options described

in section 88-83, which shall be actuarially equivalent to the maximum allowance.

To receive benefits, the beneficiary shall have been designated by the member in the form and manner prescribed by the board.

(b) If a class H member dies after the date of the filing of the member's written application to retire but prior to the retirement date designated by the member, and[,] if the member was eligible to retire on the date of the member's death, the member's designated beneficiary, or otherwise the personal representative of the member's estate, may elect to receive either the death benefit under section 88-338 or the allowance under the option selected by the member that would have been payable had the member retired. The effective date of the member's retirement shall be the first day of a month, except for the month of December when the effective date of retirement may be on the first or last day of the month, and shall be no earlier than the later of thirty days from the date the member's retirement application was filed or the day following the member's date of death. The election may not be made if, at the time of the member's death, there are individuals who are eligible to receive death benefits under section 88-339 who have made a claim for the benefits; provided that, if the designated beneficiary is an individual eligible to receive benefits under section 88-339, the designated beneficiary may receive benefits pursuant to an election made under this section pending disposition of the claim for benefits under section 88-339. If death benefits are payable under section 88-339, the death benefits shall be in lieu of any benefits payable pursuant to this section.

(c) If a retirant dies within one year after the date of retirement, the retirant's designated beneficiary may elect to receive either the death benefit under the retirement allowance option selected by the [member,] retirant or the benefits that would have been paid under section 88-338 had the retirant died immediately prior to retirement, less any payments received by the retirant[.]; provided that the designated beneficiary may not elect to receive benefits under option 2 of section 88-83 if the retirant would not have been permitted by applicable law or by the rules of the board to name the designated beneficiary as beneficiary under option 2.

(d) Upon a member's retirement:

- (1) The member's election of a retirement allowance option shall be irrevocable; and
  - (2) The member's designation of a beneficiary shall be irrevocable if the retirement allowance option elected by the member is:
    - (A) Option 2 or 3 described in section 88-83;
    - (B) An option that includes option 2 or 3 in combination with some other form of benefit payment; or
    - (C) Any other option for which the actuarial equivalent of the option to the maximum retirement allowance is determined at the time of the member's retirement based in whole or in part on the age of the member's designated beneficiary.
- (e) No election by a member under this section shall take effect unless:
- (1) The spouse or reciprocal beneficiary of the member is furnished written notification that:
    - (A) Specifies the retirement date, the benefit option selected, and the beneficiary designated by the member;
    - (B) Provides information indicating the effect of the election; and
    - (C) Is determined adequate by rules adopted by the board in accordance with chapter 91;
  - (2) The member selects option 2 or option 3 under section 88-83 and designates the spouse or reciprocal beneficiary as the beneficiary; or

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- (3) It is established to the satisfaction of the board that the notice required under paragraph (1) cannot be provided because:
  - (A) There is no spouse or reciprocal beneficiary;
  - (B) The spouse or reciprocal beneficiary cannot be located;
  - (C) The member has failed to notify the system that the member has a spouse or reciprocal beneficiary, or has failed to provide the system with the name and address of the member's spouse or reciprocal beneficiary; or
  - (D) Of other reasons, as established by board rules adopted in accordance with chapter 91.

Any notice provided to a spouse or reciprocal beneficiary, or determination that the notification of a spouse or reciprocal beneficiary cannot be provided shall be effective only with respect to that spouse or reciprocal beneficiary. The system shall rely upon the representations made by a member as to whether the member has a spouse or reciprocal beneficiary and the name and address of the member's spouse or reciprocal beneficiary. [~~The system shall not be liable for any false statements made by the member.~~]

(f) Each member, within a reasonable period of time before the member's retirement date, shall be provided a written explanation of:

- (1) The terms and conditions of the various benefit options;
- (2) The rights of the member's spouse or reciprocal beneficiary under subsection (e) to be notified of the member's election of a benefit option; and
- (3) The member's right to make, and the effect of, a revocation of an election of a benefit option.

(g) The system shall not be liable for any false statements made to the system by the member or by the member's employer.

(h) The increase in the retirant's benefit under options 2, 3, and, if applicable, 4, described in section 88-83, upon the death of the retirant's designated beneficiary shall be effective the first day of the month following the date of death of the designated beneficiary. The retirant shall notify the system in writing and provide a certified copy of the beneficiary's death certificate. The system shall make retroactive benefit payments to the retirant, not to exceed six months from the date the written notification and the certified copy of the death certificate are received by the system. The retroactive payments shall be without interest.

(i) A claim under this section by a retirant's or member's beneficiary for benefits upon the death of a retirant or member shall be filed no later than three years from the date of the retirant's or member's death."

SECTION 24. Section 88-334, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Upon approval by the board, the member shall receive an ordinary disability retirement benefit no earlier than thirty days from the date the application was filed or the date the member terminated service, whichever is later. [Retirement] A member whose application for an ordinary disability retirement allowance is approved by the board while the member is still in service may terminate service and retire at any time following the approval; provided that retirement shall become effective on the first day of [a] the month[;] following the month the applicant terminates employment or goes off the payroll, except for the month of December when retirement on the first or last day of the month shall be allowed."

SECTION 25. Section 88-336, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Upon application of a class H member, or the person appointed by the family court as guardian of an incapacitated member, any class H member who has been permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no wilful negligence on the member’s part, may be retired by the board for service-connected disability; provided that:

- (1) In the case of an accident occurring after July 1, 1963, the employer shall file with the system a copy of the employer’s report of the accident submitted to the director of labor and industrial relations;
- (2) An application for retirement is filed with the system within two years of the date of the accident, or the date upon which workers’ compensation benefits cease, whichever is later;
- (3) Certification is made by the head of the agency in which the member is employed, stating the time, place, and conditions of the service performed by the member resulting in the member’s disability and that the disability was not the result of wilful negligence on the part of the member; and
- (4) The medical board certifies that the member is incapacitated for the further performance of duty at the time of application and that the member’s incapacity is likely to be permanent.”

SECTION 26. Section 88-338, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Upon receipt by the system of proper proof of a class H member’s death occurring in service or while on authorized leave without pay and if no pension is payable under section 88-339, there shall be paid to the member’s designated beneficiary an ordinary death benefit as follows:

- (1) If the member had less than five years of credited service at the time of death, the member’s accumulated contributions shall be paid to the member’s designated beneficiary;
- (2) If the member had five or more years of credited service at the time of death, an amount equal to the member’s hypothetical account balance shall be paid to the member’s designated beneficiary;
- (3) If the member had ten or more years of credited service at the time of death, 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 as if the member had retired on the first day of a month following the member’s death, except for the month of December when retirement on the first or last day of the month shall be allowed. Benefits payable under this paragraph shall be calculated under option 3 of section 88-83 and computed on the basis of section [88-335;] 88-332, unreduced for age; or
- (4) If the member was eligible for service retirement at the time of death, 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 as if the member had retired on the first day of a month following the member’s death, except for the month of December when retirement on the first or last day of the month shall be allowed. Benefits payable under this paragraph shall be calculated under option 2 of section 88-83[.] and computed on the basis of section 88-332.”

SECTION 27. Section 88-342, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) When a former class H member who does not have vested benefit status returns to service, the former member shall become a member in the same manner and under the same conditions as anyone first entering service and, except as provided in subsection (b), to be eligible for any benefit, the member shall fulfill the membership service requirements for the benefit through membership service after again becoming a member in addition to meeting any other eligibility requirement established for the benefit; provided that the membership service requirement shall be exclusive of any former service acquired in accordance with section 88-324 or any other section in ~~[this] part~~ II, VII, or VIII.”

SECTION 28. Section 88-344, Hawaii Revised Statutes, is amended to read as follows:

“**§88-344 Return to service of a retirant.** (a) Any retirant who retired under the provisions of ~~[part VIII of this chapter]~~ this part and returns to service requiring active membership in the system as a class H member shall be reenrolled as an active member, and the retirant’s retirement allowance shall be suspended. When the member again retires, the retirement allowance shall be the sum of:

- (1) The allowance to which the member was entitled under the retirement allowance option selected when the member previously retired and which was suspended; and
- (2) For the period of service during the member’s reemployment, the allowance to which the member is entitled for that service based on the retirement allowance option initially selected and computed for the member’s age, average final compensation, and other factors in accordance with the benefit formula of a class H member under section 88-332 in existence at the time of the member’s final retirement.

(b) Any retirant who retired under ~~[part VIII]~~ the provisions of this part and returns to service requiring active membership in the system as a class A or class B member shall be reenrolled as an active member, and the retirant’s retirement allowance shall be suspended. When the member again retires, the retirement allowance shall be the sum of:

- (1) The allowance to which the member was entitled under the retirement allowance option selected when the member previously retired and which was suspended; and
- (2) For the period of service during the member’s reemployment, the allowance to which the member is entitled for that service based on the retirement allowance option initially selected and computed for the member’s age, average final compensation, and other factors in accordance with the benefit formula of a class A or class B member under section 88-74 in existence at the time of the member’s final retirement.

(c) Any retirant who received the special retirement incentive benefit under Act 253, Session Laws of Hawaii 2000, as amended by Act 131, Session Laws of Hawaii 2002, and is reemployed by the State or a county in any capacity shall:

- (1) Have the retirant’s retirement allowance suspended;
- (2) Forfeit the special retirement incentive benefit and any related benefit provided by ~~[chapter 88;]~~ this chapter; and
- (3) Be subject to the age and service requirements under section 88-331 when the member again retires.

(d) If a retirant’s designation of beneficiary was irrevocable upon the retirant’s initial retirement, the retirant may not change the retirant’s designated

beneficiary when the retirant returns to service or when the former retirant again retires.

(e) A retirant who returns to service shall not be considered to be “in service”, for the purposes of section 88-334, 88-336, 88-338, or 88-339, or any other provision of this chapter providing for benefits arising out of the disability or death of a member. A retirant who returns to service and dies during the period of reemployment shall be considered to have retired again effective as of the first day of the month following the month in which the death occurs, except for death during the month of December when the effective date of retirement may be the last day of the month.

~~[(e)]~~ (f) The board shall adopt any rules as may be required to administer ~~[the purposes of]~~ this section.”

SECTION 29. Section 88-72, Hawaii Revised Statutes, is repealed.

SECTION 30. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>3</sup>

SECTION 31. This Act shall take effect on July 1, 2007; provided that sections 11, 12, and 24 shall be effective retroactive to July 1, 2006.

(Approved June 27, 2007.)

#### Notes

1. So in original.
2. Semicolon should be underscored.
3. Edited pursuant to HRS §23G-16.5.

## ACT 216

S.B. NO. 1750

A Bill for an Act Relating to Health.

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

SECTION 1. The legislature finds that shaken baby syndrome is the medical term used to describe the vigorous violent shaking of an infant or young child and the resulting injuries. At least one in four victims of shaken baby syndrome die as a result of their injuries. More than fifty per cent of the infants and young children who survive shaken baby syndrome suffer from residual disabilities, including brain damage, seizures, mental retardation, spinal injury, paralysis, blindness, and hearing loss.

The legislature further finds that shaken baby syndrome is preventable when parents of newborns are educated regarding the effects of a moment’s violent loss of control and the resulting signs and symptoms of shaken baby syndrome. Prevent Child Abuse Hawaii is a nonprofit organization willing to provide hospitals and public health facilities with written educational materials about the dangerous effects of shaken baby syndrome and the different methods of preventing shaken baby syndrome.

The purpose of this Act is to enable a hospital, including a public health facility, to provide information regarding shaken baby syndrome to the parents of all newborns under its care.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§321- Shaken baby syndrome. (a) Any hospital that provides medical care to a newborn may provide each parent of the newborn with written educational information approved by the department of health and provided by nonprofit organizations about the dangerous effects of shaken baby syndrome and the different methods of preventing shaken baby syndrome.

(b) For the purpose of this section:

“Hospital” includes:

- (1) An institution with an organized medical staff, regulated under section 321-11(10), that admits patients for inpatient care, diagnosis, observation, and treatment; and
- (2) A health facility under chapter 323F.

“Medical care” means every type of care, treatment, surgery, hospitalization, attendance, service, and supplies as the nature of the injury or condition requires.

“Parent” includes a biological mother or father, foster mother or foster father, adoptive mother or adoptive father, and step-mother or step-father.

“Shaken baby syndrome” means an injury caused by the vigorous shaking of an infant or young child that may result in injuries such as subdural hemotoma,<sup>1</sup> head injury, irreversible brain damage, blindness, retinal hemorrhage, eye damage, cerebral palsy, hearing loss, spinal cord injury, paralysis, seizures, learning disability, central nervous system injury, rib fracture, or death.”

SECTION 3. 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 2009. The report shall include:

- (1) Statistics on the number of hospitals, since this Act took effect, that have provided all parents of newborns with written educational information about the dangerous effects of shaken baby syndrome and the different methods of preventing shaken baby syndrome;
- (2) Statistics on the number of cases of shaken baby syndrome to see the results of providing this educational material to parents of newborns; and
- (3) Recommendations, including suggested legislation, on improving methods and policies necessary to provide for the safety of newborn children.

SECTION 4. New statutory material is underscored.<sup>2</sup>

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

(Approved June 27, 2007.)

Notes

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

ACT 217

S.B. NO. 188

A Bill for an Act Relating to the Small Business Regulatory Flexibility Act.

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

SECTION 1. The legislature finds that there is a need to clarify the timing of preparation and distribution of the small business impact statement required by chapter 201M, Hawaii Revised Statutes, to allow adequate review and comment to the agency by small businesses directly affected by a proposed rule and by the small business regulatory review board.

The purpose of this Act is to require that the small business impact statement be prepared and submitted to the small business regulatory review board as early as practicable in the rule drafting process. The Act also expands the duties of the board to include review of any new or proposed rule, requires the board to inform a small business that they may submit a complaint to the ombudsman when the decision is to uphold a rule, and makes housekeeping amendments to the Small Business Regulatory Flexibility Act.

SECTION 2. Section 201M-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“‘Rule’ shall have the same meaning as in section 91-1.”

SECTION 3. Section 201M-2, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) If the proposed rules affect small business, the agency shall consider creative, innovative, or flexible methods of compliance for small businesses and prepare a small business impact statement to be submitted with the proposed rules to the departmental advisory committee on small business and the ~~[small business regulatory review]~~ board ~~[prior to providing notice for a public hearing.]~~ when the rules are essentially complete and before the rules are submitted to the governor for approval for public hearing. The statement shall provide a reasonable determination of the following:

- (1) The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules;
- (2) Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected;
- (3) In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance;
- (4) The probable monetary ~~[cost]~~ costs and benefits to the implementing agency and other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used;
- (5) The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or any other mitigating techniques;
- (6) How the agency involved small business in the development of the proposed rules; and
- (7) Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

(c) This chapter shall not apply to proposed rules adopted by an agency to implement a statute or ordinance that does not require an agency to interpret or describe the requirements of the statute or ordinance, such as federally-mandated regulations ~~[which affords]~~ that afford the agency no discretion to consider less restrictive alternatives.”

SECTION 4. Section 201M-5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) There shall be established within the department of business, economic development, and tourism, for administrative purposes, a small business regulatory review board to review any proposed new or amended rule or to consider any request from small business owners for review of any rule adopted by a state agency and to make recommendations to the agency or the legislature regarding the need for a rule change or legislation. For requests regarding county ordinances, the board may make recommendations to the county council or the mayor for appropriate action.”

2. By amending subsection (f) to read:

“(f) The board shall submit an annual report to the legislature twenty days prior to each regular session detailing any requests from small business owners for review of any rule adopted by a state agency, and any recommendations made by the board to an agency or the legislature regarding the need for a rule change or legislation. The report shall also contain a summary of the comments made by the board to agencies regarding its review of proposed new or amended rules.”

SECTION 5. Section 201M-6, Hawaii Revised Statutes, is amended to read as follows:

“~~[§201M-6]~~ **Petition for regulatory review.** (a) In addition to the basis for filing a petition provided in section 91-6, any affected small business may file a written petition with the agency that has adopted the rules objecting to all or part of any rule affecting small business on any of the following grounds:

- (1) The actual effect on small business was not reflected in, or significantly exceeded, the small business impact statement submitted prior to the adoption of the rules;
- (2) The small business impact statement did not consider new or significant economic information that reveals an undue impact on small business; [øø]
- (3) These impacts were not previously considered at the public hearing on the rules[-.];

~~[(b) For rules adopted prior to July 1, 1998, an affected small business may file a written petition with the agency that adopted the rules objecting to all or part of any rules affecting small business on any of the following grounds:~~

- ~~[(1)]~~ (4) The rules ~~[created]~~ create an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs its benefit to the public;
- ~~[(2)]~~ (5) The rules duplicate, overlap, or conflict with rules adopted by another agency or violate the substantive authority under which the rules were adopted; or
- ~~[(3)]~~ (6) The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

~~[(e)]~~ (b) Upon submission of the petition, the agency shall forward a copy of the petition to the board, as notification of a petition filed under this chapter. The agency shall promptly consider the petition and may seek advice and counsel regarding the petition from the appropriate departmental advisory committee on small business. Within sixty days after the submission of the petition, the agency shall determine whether the impact statement or the public hearing addressed the actual and significant impact on small business. The agency shall submit a written response of the agency’s determination to the small business review board within sixty days after receipt of the petition. If the agency determines that the petition

merits the adoption, amendment, or repeal of a rule, it may initiate proceedings in accordance with section 91-3.

~~[(d)]~~ (c) If the agency determines that the petition does not merit the adoption, amendment, or repeal of any rule, any affected small business may seek a review of the decision by the ~~[small-business-regulatory-review]~~ board. The board shall promptly convene a meeting pursuant to chapter 92 for the purpose of soliciting testimony that will assist in its determination whether to recommend that the agency initiate proceedings in accordance with section 91-3. ~~[For rules adopted after July 1, 1998, the]~~ The board may base its recommendation on any of the following reasons:

- (1) The actual effect on small business was not reflected in, or significantly exceeded, the impact statement submitted prior to the adoption of the rules;
- (2) The impact statement did not consider new or significant economic information that reveals an undue impact on small business; ~~[or]~~
- (3) These impacts were not previously considered at the public hearing on the rules~~[-];~~

~~[(e)]~~ ~~For rules adopted prior to July 1, 1998, the regulatory review board may base its recommendation to the agency on any of the following reasons:~~

- ~~(1)~~ (4) The rules ~~[ereated]~~ create an undue barrier to the formation, operation, and expansion of small businesses in the State in a manner that significantly outweighs its benefit to the public;
- ~~[(2)]~~ (5) The rules duplicate, overlap, or conflict with rules adopted by another agency or violate the substantive authority under which the rules were adopted; or
- ~~[(3)]~~ (6) The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

~~[(f)]~~ (d) If the ~~[small-business-regulatory-review]~~ board recommends that an agency initiate rulemaking proceedings for any reason provided in subsection ~~[(d)]~~ or ~~(e)~~, (c), it shall submit to the legislature an evaluation report and the agency's response as provided in subsection ~~[(e)]~~ (b). The legislature may subsequently take ~~[such]~~ any action in response to the evaluation report and the agency's response as it finds appropriate.

(e) If the board does not recommend that an agency initiate rulemaking proceedings, the board shall notify the small business of its decision and inform the small business that the small business may submit a complaint to the ombudsman pursuant to chapter 96 regarding the decision of the agency or board.

~~[(g)]~~ (f) Nothing in this section shall entitle an affected small business to a contested case hearing under chapter 91."

SECTION 6. Section 201M-7, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Each agency having rules that affect small business [in effect on July 1, 1998] shall submit by June 30 of each odd-numbered year, a list of those rules to the small business regulatory review board. The agency shall also submit a report describing the specific public purpose or interest for adopting the respective rules and any other reasons to justify its continued implementation."

2. By amending subsection (c) to read:

"(c) The board may solicit testimony from the public regarding any report submitted by the agency under this section at a public meeting held pursuant to chapter 92. Upon consideration of any report submitted by an agency under this section and any public testimony, the [small-business-regulatory-review] board shall

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submit an evaluation report to [each] the next regular session of the legislature [~~in even-numbered years~~]. The evaluation report shall include an assessment as to whether the public interest significantly outweighs a rule’s effect on small business and any legislative proposal to eliminate or reduce the effect on small business. The legislature may take [such] any action in response to the report as it finds appropriate.”

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect upon approval.

(Approved June 28, 2007.)

**ACT 218**

H.B. NO. 1211

A Bill for an Act Relating to Family Court.

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

SECTION 1. Section 571-87, Hawaii Revised Statutes, is amended to read as follows:

**“§571-87 Appointment of counsel and guardian ad litem; compensation.**

(a) When it appears to a judge that a person requesting the appointment of counsel satisfies the requirements of chapter 802 for determination of indigency, or the court in its discretion appoints counsel under chapters 587 and 346, part X, or that a person requires appointment of a guardian ad litem, the judge shall appoint counsel or a guardian ad litem to represent the person at all stages of the proceedings, including appeal, if any. Appointed counsel and the guardian ad litem shall receive reasonable compensation for necessary expenses, including travel, the amount of which shall be determined by the court, and reasonable fees pursuant to subsection (b). All of these expenses and fees shall be certified by the court and paid upon vouchers approved by the judiciary and warrants drawn by the comptroller.

(b) The court shall determine the amount of reasonable compensation paid to appointed counsel and guardian ad litem, based on the rate of [~~\$40~~] \$90 an hour for [~~out-of-court~~] legal services, and \$60 an hour for [~~in-court~~] non-legal services [~~with a maximum fee in accordance with~~]; provided that the maximum allowable fee shall not exceed the following schedule:

- (1) Cases arising under chapters 587 and 346, part X:
  - (A) Predisposition ..... [~~\$1,500;~~] \$3,000;
  - (B) Postdisposition review hearing ..... [~~\$500;~~] \$1,000;
- (2) Cases arising under chapters 560, 571, 580, and 584 ... [~~\$1,500;~~] \$3,000.

Payments in excess of any maximum provided for under paragraphs (1) and (2) may be made whenever the court in which the representation was rendered certifies,<sup>1</sup> based upon representations of extraordinary circumstances, attested to by the applicant, that the amount of the excess payment is necessary to provide fair compensation in light of those circumstances, and the payment is approved by the administrative judge of [such] that court.”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$880,000, or so much thereof as may be necessary for fiscal year 2007-2008 for the purposes of this Act.

The sums appropriated shall be expended by the judiciary for the purposes of this Act.

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

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved June 28, 2007.)

**Note**

1. Comma should be underscored.

**ACT 219**

H.B. NO. 212

A Bill for an Act Relating to Health Care.

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

**PART I**

SECTION 1. The legislature finds that the island of Maui needs additional acute care beds and services. In 2004, the Hawaii Health Information Corporation published a document entitled “Maui Bed Needs Study, 2005 – 2025” in collaboration with Kaiser Permanente, Malulani Health Systems, Inc., the Maui county mayor’s office, the Maui Memorial Medical Center, and the state health planning and development agency. The Maui Bed Needs Study used scientific methodologies to predict the number of additional beds needed in the near term.

The legislature also finds that the Maui community wants to have a greater say in the health care planning process for the island. The purpose of this part is to empower the citizens of the county of Maui by creating the Maui health initiative task force to develop a comprehensive strategic health plan and by expediting the approval of new acute care facilities and medical or emergency services on the island of Maui.

SECTION 2. Maui health initiative task force. (a) There is created the temporary Maui health initiative task force within the state health planning and development agency for administrative purposes to develop a comprehensive strategic health plan for the county of Maui. The state health planning and development agency and the department of health shall provide technical and administrative support to the task force.

(b) The task force shall consist of fifteen members to be appointed without regard to section 26-34, Hawaii Revised Statutes, as follows:

- (1) The mayor of Maui shall appoint seven members who are residents of various regions of Maui, including east, west, central, upcountry, south, Molokai, and Lanai;
- (2) The president of the senate shall appoint four members; and
- (3) The speaker of the house of representatives shall appoint four members.

Members shall have diverse backgrounds and experiences, including health care (such as acute care, long term care, emergency medical services, and higher education as related to health care professions), finance, planning, or as a consumer. At least one member shall have statewide experience. No member shall be employed by the department of health or the state health planning and development agency attached to the department of health. Members shall not receive compensation but

shall be reimbursed for necessary expenses incurred in carrying out their duties, including travel expenses.

(c) The task force shall develop a comprehensive strategic health plan for the county of Maui that will:

- (1) Determine the current and future health care needs of Maui county;
- (2) Develop an integrated plan for providing health care, including primary, acute, and long-term care, urgent and emergency care, and disaster preparedness; and
- (3) Determine an appropriate role for Maui county health care facilities within the statewide system of emergency and trauma care.

(d) The task force may contract for services to obtain necessary information, data, and analysis. The task force shall utilize the Maui Bed Needs Study in its deliberations. The state health planning and development agency shall expedite any contracts required under chapter 103D, Hawaii Revised Statutes.

(e) The task force shall submit its final report, including findings, recommendations, and any necessary proposed legislation, to the legislature, the mayor of Maui county, and the state health planning and development agency no later than twenty days prior to the convening of the regular session of 2008. Within sixty days of receipt of the task force's report, the state health planning and development agency shall integrate the report into the activities of the tri-isle subarea health planning council.

(f) The task force shall convene its first meeting no later than July 15, 2007, and shall terminate on June 30, 2008.

SECTION 3. Any other law to the contrary notwithstanding, the state health planning and development agency shall grant expedited review to any application for a certificate of need whose health care service area is within Maui County that demonstrates financial viability and meets the Hawaii health performance plan relating to Maui county as revised pursuant to section 2(e). Any required hearings or reviews shall be held in Maui county.

SECTION 4. 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 2007-2008 for the operation of the Maui health initiative task force to carry out the purposes of this part.

The sum appropriated shall be expended by the state health planning and development agency for the purposes of this part.

## PART II

SECTION 5. The legislature finds that the State's rapidly aging population will significantly increase the demand for health care services and long-term care. Regrettably, there is a growing shortage of health care professionals in Hawaii, especially on the neighbor islands and in rural areas. The problem is further aggravated by the fact that, as the State loses essential health care providers, the current health care workforce continues to age, exacerbating the growing shortage of providers. Low reimbursement rates, issues related to living and working in remote communities, challenging working conditions, and the cost of medical malpractice insurance also continue to create barriers to recruitment and retention of health care providers, especially in certain specialty areas.

While providing adequate health insurance for all of the people in the State remains a challenge, the health care workforce shortage will continue to leave many without access to appropriate care. A fully staffed, well-trained health care workforce is a key component in providing quality health care for all Hawaii residents.

The purpose of this part is to develop and maintain a secure statewide comprehensive health care workforce map and database, to identify healthcare workforce shortages through 2020, and to develop a plan to improve any workforce shortages. Nurses are exempt, as Act 198, Session Laws of Hawaii 2003, creates a center for nursing that addresses nursing workforce issues. Like the nursing shortage, workforce shortages in other health care professions must be seen as a long-term problem. Developing expertise within the State will be cost-effective over time. Therefore, a partnership between the state health planning and development agency and the University of Hawaii will be an important element in creating solutions to the health care workforce shortage problem.

SECTION 6. The John A. Burns school of medicine, in cooperation with the state health planning and development agency, shall:

- (1) Compile and analyze existing data on the supply and distribution of licensed health care practitioners, technicians, and other health care workers in the State by profession, specialty, and practice location;
- (2) Develop projections through 2020 of the workforce supply and demand to identify shortages;
- (3) Develop a plan to address and reduce any identified shortages of health care workers;
- (4) Develop a plan to collect and systematically update the data; and
- (5) Ensure that data collected is accurate and secure and that data specific to any practitioner is disclosed only with the express written consent of the practitioner.

### PART III

SECTION 7. This Act shall take effect upon its approval; provided that section 4 shall take effect on July 1, 2007.

(Approved June 28, 2007.)

## ACT 220

S.B. NO. 1820

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

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

SECTION 1. The legislature finds that public schools in Hawaii are suffering from severe overcrowding, which adversely affects the learning potential of our children. With Hawaii's high growth rate and the continuous construction of new home developments, the overcrowding problems will only become amplified.

The legislature further finds that financing new school projects without using general obligation bonds needs to be implemented. Encouraging partnerships between public schools and private developers is a cost-effective and timely way to finance new school construction to help alleviate overcrowding.

The purpose of this Act is to, among other things, provide the department of education with more autonomy in the acquisition of new school design and construction projects by establishing a separate account that is subject to legislative approval for the payment of lease-purchase agreements.

SECTION 2. Section 36-32, Hawaii Revised Statutes, is amended to read as follows:

**“§36-32 State educational facilities improvement special fund.** (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 technology infrastructure to 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 superintendent of education.

(b) There is established within the state educational facilities improvement special fund a separate account, to be known as the lease payments for schools account, for lease payments required by financing agreements entered into by the department of education pursuant to this section and sections 37D-2 and 302A-1506. The lease payments for schools account shall be funded by legislative appropriations and expended by the superintendent of education. Expenditures from the lease payments for schools account shall be exempt from chapters 103 and 103D and are restricted to lease payments on new schools included within the department of education’s current six year capital improvement programs and for which:

- (1) The legislature adopted a concurrent resolution directing the department of education to:
  - (A) Build a new school in a specific geographic area using the design-build method; and
  - (B) Pursue the use of a financing agreement to build the new school;
- or
- (2) The legislature appropriated planning and design funds and specified that the remainder of the costs necessary to complete the project are eligible for funding through a financing agreement;

provided that any school to which the legislature has appropriated planning and design funds prior to the effective date of this Act and for which a private developer is willing to enter into a lease-purchase agreement with the department of education within twelve months of the effective date of this Act is exempt from the requirements of subsections (b)(1) and (2).

[(b)] (c) The department of education shall submit an annual report to the legislature that shall include a financial statement of the special fund, the lease payments for schools account established under subsection (b), and the status of projects undertaken pursuant to this section, no later than twenty days prior to the convening of each regular session.”

SECTION 3. Section 37D-2, Hawaii Revised Statutes, is amended to read as follows:

**“§37D-2 Financing agreements.** (a) There is hereby established and authorized the financing agreement program of the State. Any agency desiring to acquire or improve projects through the financing agreement program established and authorized by this chapter shall submit a written request to the department providing such information as the department shall require. Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation, only with the approval by the attorney general as to form and legality and upon the written request of one or more participating agencies may the department enter into a financing

agreement in accordance with this chapter, except that the department of education may enter into a financing agreement in accordance with section 36-32 with the concurrence of the director and with the approval of the attorney general as to form and legality; and that the board of regents of the University of Hawaii may enter into a financing agreement in accordance with this chapter without the approval of the director and of the attorney general as to form and legality if the principal amount of the financing agreement does not exceed \$3,000,000.

A financing agreement may be entered into by the department on behalf of one or more participating agencies at any time (before or after commencement or completion of any improvements or acquisitions to be financed) and shall be upon terms and conditions the department finds to be advantageous. In each case of a written request by the judiciary to participate in the financing agreement program, the department shall implement the request; provided that the related financing agreement shall be upon terms and conditions the department finds to be advantageous. Any financing agreement entered into by the department without the approval required by this section shall be void and of no effect. A single financing agreement may finance a single item or multiple items of property to be used by multiple agencies or may finance a single item or multiple items of property to be used by a single agency. The department shall bill any participating agency that benefits from property acquired with the proceeds of a financing agreement for such participating agency's pro rata share of:

- (1) The department's costs of administration of the financing agreement program; and
- (2) The financing costs, including the principal and interest components of the financing agreement and insurance premiums;

on a monthly or other periodic basis, and may deposit payments received in connection with the billings with a trustee as security for a financing agreement. Any participating agency receiving such a bill shall be authorized and shall pay the amounts billed from the available moneys.

(b) Financing agreements shall be subject to the following limitations:

- (1) Amounts payable by a participating agency to or upon the direction of the department in respect to a project and by the department under a financing agreement shall be limited to available moneys. In no circumstance shall the department be obligated to pay amounts due under a financing agreement from any source other than available moneys. If, by reason of insufficient available moneys or other reason, amounts due under a financing agreement are not paid when due, the lender may exercise any property right that the department has granted to it in the financing agreement, against the property that was purchased with the proceeds of the financing agreement, and apply the amounts so received toward payments scheduled to be made by the department under the financing agreement;
- (2) No property rights may be granted in property unless the property is being acquired, is to be substantially improved, is to be refinanced with the proceeds of a financing agreement, or is land on which the property is located;
- (3) Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation and as otherwise provided in this section with respect to the department of education and the University of Hawaii, and except as provided in chapter 323F as to the Hawaii health systems corporation, an agency shall not have the power to enter into a financing agreement, except through the department as authorized by this chapter, and nothing in this chapter shall be construed to

authorize the sale, lease, or other disposition of property owned by an agency;

- (4) Except as otherwise provided in this section with respect to the department of education and the University of Hawaii, the sale, assignment, or other disposition of any financing agreements, including certificates of participation relating thereto, shall require the approval of the director; and
- (5) The department shall not be subject to chapter 103D and any and all other requirements of law for competitive bidding for financing agreements.”

SECTION 4. Section 302A-1506, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§302A-1506**~~]]~~ **Public school facilities.** The department may enter into such contracts, leases, lease-purchase agreements, or other transactions as may be necessary for the acquisition of public school facilities, including any lands for these facilities, on such terms as it may deem appropriate~~[-subject to approval by the comptroller.]~~ with the concurrence of the director of finance.”

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

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved June 28, 2007.)

**ACT 221**

H.B. NO. 1221

A Bill for an Act Relating to Agriculture.

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

SECTION 1. The cost of feed for livestock production in Hawaii can comprise up to seventy per cent of total production costs versus close to fifty per cent for mainland producers. There are currently five dairies and six egg farms of significant size, with combined gross annual revenues of \$26,400,000. Within the past year, two egg farms and one dairy farm have gone out of business due to production cost increases, largely attributed to the rising cost of feed for livestock animals. Currently, another dairy farm and another egg farm are threatened by closure. Such closures increase the State’s dependence on imported foods and threaten the State’s food security and ability to achieve levels of agricultural self-sufficiency. Self-sufficiency is critical to the State’s ability to respond effectively in the event of natural disasters or disruptions in transportation.

Closure of local dairies and poultry farms also means that children and adults throughout the state will no longer have the option of selecting fresh, locally produced milk, fresh chickens, and eggs. The public throughout the state has often expressed interest in obtaining locally produced milk, but unfortunately, the dairies do not produce enough to meet the public demand. The public has expressed similar interest for island fresh beef, pork, chicken, and eggs.

Locally produced fresh beef, milk, pork, chickens, and eggs provide essential nutritional needs to consumers. Because these food products are perishable, imported products create an increased risk of food spoilage and resultant food-borne

illnesses due to the increase in time to transport these products from the overseas farms to Hawaii consumers.

Without these local industries, all beef, milk, pork, chicken, and eggs would have to be imported into the state, incurring up to ten days of shipping before being offered to the consumers. Increased shipping time especially decreases the expected shelf life of fresh milk and eggs.

The purpose of this Act is to create a livestock revitalization and food security program to administer and disburse funds to qualified cattle, dairy, hog, and poultry farms that apply for and receive, if properly documented, a reimbursement for up to sixty per cent of each farm's feed expenses. With financial support, the livestock industry will be able to make investments in modern equipment, expand and improve their herds and flocks, and develop new markets and products. This financial support will serve a public purpose by enabling the livestock industries to stabilize their operations, thus, contributing to food security, and make them more competitive with mainland suppliers in the future.

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

**“CHAPTER  
LIVESTOCK REVITALIZATION PROGRAM**

§ -1 **Definitions.** As used in this chapter:

“Administrative costs” means costs associated with reviewing, approving, and recording expenditures and completing any reporting requirements associated with the grant program.

“Department” means the department of agriculture.

“Milk” means the lacteal secretion, practically free from colostrums, obtained by the milking of healthy cows normally produced or marketed through the channels of the fluid milk trade.

“Poultry products” means chicken eggs, uncooked in shell, egg-laying chicks, meat bird chicks, pullets, broilers, fryers, and laying chicken hens.

“Qualified producer” means any person that at the time of application for and disbursement of funds under this chapter is in the business of producing:

- (1) Milk from a herd, located in Hawaii, of not less than three hundred fifty cows;
- (2) Poultry products from a flock, raised and located in Hawaii, of not less than three thousand birds;
- (3) Pork from a herd, raised and located in Hawaii, of not less than fifty sows; or
- (4) Beef, that is grown, slaughtered, processed, and marketed in Hawaii. Producers who finish at least one hundred head of beef cattle annually shall be eligible for this program.

§ -2 **Grants.** (a) Applications for grants by qualified producers shall be submitted a form furnished by the department and shall be filed with accompanying documentation of animal feed costs; provided that:

- (1) The applicant shall comply with applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, or disability;
- (2) The applicant shall have applied for or received all applicable licenses or permits;

- (3) The applicant shall indemnify and hold harmless the State and its officers, agents, and employees from all claims arising out of or resulting from the feed purchased;
  - (4) The subsidy shall not be allowed within a fiscal quarter if the flock or herd size falls five per cent or more below the required minimum of:
    - (A) Three thousand birds;
    - (B) Three hundred fifty cows;
    - (C) Fifty sows in any two months of the applicable fiscal quarter; or
    - (D) One hundred finished beef cattle annually;
  - (5) The grant shall not exceed a total of \$250,000 per qualified producer per year; and
  - (6) The department may request an applicant to provide necessary information for the purposes of verifying flock or herd size and feed purchases.
- (b) Documentation of animal feed costs, as requested by the department, shall be filed for feed purchased within the immediate preceding fiscal quarter of filing and shall be effective for feed costs incurred after July 1, 2007.
- (c) The applicant shall submit a quarterly financial statement of farm revenues and expenses along with other supporting documents as deemed necessary by the department, and filed with the documentation of the feed costs. An annual financial statement shall be filed with the department within ninety days following the close of the business's fiscal year after the effective date of this Act for final reconciliation of any reimbursement paid during the previous three quarters within the fiscal year. The financial statements shall be certified as accurate by the applicant and the preparer of the financial statement on forms prepared by the department.
- (d) Funds shall be disbursed upon approval by the department to the qualifying producer for up to:
- (1) Sixty per cent of the feed costs incurred for production of poultry products;
  - (2) Forty per cent of the feed costs incurred for milk production;
  - (3) Fifty per cent of the feed costs incurred for pigs raised in Hawaii and slaughtered for local consumption; or
  - (4) Fifty per cent of the feed costs for beef cattle raised in Hawaii and slaughtered in Hawaii for local consumption.
- (e) Feed costs shall be limited to only the feed fed to the qualifying flock or herd and shall not include the feed purchases for resale or gift, or the cost of transportation to Hawaii. In no case shall costs be reimbursed to a qualified producer when, after evaluation and verification by the department, the department determines that the amount of reimbursement will result in an annual profit of more than:
- (1) Twelve per cent for milk producers;
  - (2) Eight per cent for poultry producers;
  - (3) Eight per cent for pork producers; or
  - (4) Eight per cent for beef producers.

§ -3 **Exemption from chapter 42F.** Chapter 42F shall not apply to the grants made pursuant to this chapter, but all reimbursements shall be made only in accordance with the standards and conditions specified in section -2.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for the agricultural development division of the department of agriculture to disburse to qualified producers of milk, pork, eggs, poultry, and beef, for the cost of feed for beef cattle, dairy cows, hogs, or poultry and to provide for the administrative costs of the livestock revitalization program. The appropriations

made for the purposes authorized under this section shall not lapse at the end of the fiscal year for which the appropriations are made; provided that any balance of any appropriation that is not encumbered as of December 31, 2010, shall lapse as of that date.

The sums appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval; provided that section 3 of this Act shall take effect on July 1, 2007.

(Approved June 28, 2007.)

## ACT 222

S.B. NO. 1917

A Bill for an Act Relating to Housing.

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

### PART I. FINDINGS AND PURPOSE

SECTION 1. The legislature finds that the homeless and affordable housing crises continue to be two of the State's most significant and challenging social problems.

The most recent estimate of the total number of homeless persons in the State is six thousand twenty-nine on any given day. In addition, the Hawaii Homeless Point-in-Time Study of 2003 found that over four thousand of these homeless persons are unsheltered. This is indicative of the limited shelter space available in the State.

Also troubling is the fact that a staggering thirty-seven per cent of the unsheltered homeless are individuals of Hawaiian or part-Hawaiian ancestry. Equally troubling is the fact that on any given day, there are eight hundred thirty-eight homeless children in the State. None of these numbers reflect the number of people who are considered hidden homeless or those who are at-risk of homelessness.

The housing crisis requires government to explore alternative means of providing shelter to Hawaii's residents. Large numbers of native Hawaiians are currently without shelter. Indigenous forms of shelter may be an option for many native Hawaiians as provided under section 46-1.55, Hawaii Revised Statutes. However, only Maui county has amended its building code to allow for the construction of indigenous Hawaiian structures, and no counties have amended their codes to allow for the construction of indigenous Hawaiian dwellings for residential purposes.

Housing, in general, is a critical issue for many residents in Hawaii, where the costs of homeownership and rental are increasing. The prospect of making high mortgage payments and saving enough money for the downpayment and closing costs needed to buy a home at current market prices is a formidable challenge. Even higher income families must often seek help from relatives to overcome this obstacle. More needs to be done to increase the inventory of and ensure that residents have access to affordable housing as well.

The legislature recognizes that meaningful solutions to Hawaii's housing and homeless problems must be found.

The purpose of this Act is to:

- (1) Provide funding for various homeless shelters and transitional housing programs and services;
- (2) Provide funding for a census, interviews, and homeless best-practice solutions for the Waianae Coast homeless population;
- (3) Require the Hawaii housing finance and development corporation to create an affordable housing inventory registry;
- (4) Extend the sunset date for the allocation of the conveyance tax to the rental housing trust fund to June 30, 2008;
- (5) Provide funding for various affordable and public housing programs; and
- (6) Require counties to adopt rules to allow for the construction of indigenous Hawaiian structures by March 31, 2008.

## PART II. THE HOMELESS; AFFORDABLE AND PUBLIC HOUSING

SECTION 2. Section 201H-6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§201H-6]]~~ **Housing advocacy and information system.** (a) The corporation, with the assistance of other agencies of the State and counties with related responsibilities, shall develop and maintain a housing advocacy and information system to aid the corporation in meeting the needs and demands of housing consumers.

(b) In establishing and maintaining the housing advocacy and information system, the corporation shall conduct market studies, engage in community outreach, and solicit recommendations from, and statistics and research developed by, agencies of the United States, the State, the counties, private research organizations, nonprofit community groups, trade associations, including those of the construction and real estate industries, departments, individuals at the University of Hawaii, and housing consumers.

(c) The corporation shall analyze the information received and make recommendations to the appropriate agencies and developers.

(d) The corporation, through the housing advocacy and information system, shall act as a clearinghouse for information relating to housing conditions, needs, supply, demand, characteristics, developments, trends in federal housing programs, and housing laws, ordinances, rules, and regulations.

(e) The housing advocacy and information system may be used by housing researchers, planners, administrators, and developers and shall be coordinated with other housing research efforts. The corporation shall maintain a current supply of information, including means to gather new information through surveys, contracted research, and investigations.

(f) The corporation, through the housing advocacy and information system, shall develop and maintain an affordable housing inventory registry to identify:

- (1) Affordable housing projects developed by the corporation utilizing moneys in the rental housing trust fund or the dwelling unit revolving fund;
- (2) State and federal public housing projects identified by the Hawaii public housing authority;
- (3) United States Department of Housing and Urban Development Region 9 federally supported and privately managed housing projects; and
- (4) State and county lands that may be developed for affordable housing, as defined in section 201H-57(b).”

SECTION 3. Section 247-7, Hawaii Revised Statutes, is amended to read as follows:

**“§247-7 Disposition of taxes.** All taxes collected each fiscal year under this chapter shall be ~~[paid into the state treasury to the credit of the general fund of the State, to be used and expended for the purposes for which the general fund was created and exists by law; provided that of the taxes collected each fiscal year:]~~ deposited as follows:

- (1) Ten per cent shall be paid into the land conservation fund established pursuant to section 173A-5;
- (2) Fifty per cent shall be paid into the rental housing trust fund established by section ~~[201G-432;]~~ 201H-202; and
- (3) Twenty-five per cent shall be paid into the natural area reserve fund established by section 195-9; provided that the funds paid into the natural area reserve fund shall be annually disbursed by the department of land and natural resources in the following priority:
  - (A) To natural area partnership and forest stewardship programs after joint consultation with the forest stewardship committee and the natural area reserves system commission;
  - (B) Projects undertaken in accordance with watershed management plans pursuant to section 171-58 or watershed management plans negotiated with private landowners, and management of the natural area reserves system pursuant to section 195-3; and
  - (C) The youth conservation corps established under chapter 193.”

SECTION 4. Act 100, Session Laws of Hawaii 2006, is amended by amending section 30 to read as follows:

“SECTION 30. This Act shall take effect on July 1, 2006; provided that on June 30, ~~[2007;]~~ 2008, section 21 shall be repealed and section 247-7, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the approval of this Act.”

SECTION 5. There is appropriated out of the rental housing trust fund the sum of \$14,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the planning, development, and construction of affordable housing in cooperation with private and nonprofit developers.

The sum appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this section.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$6,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 to Hawaii public housing authority for:

- (1) Homeless facilities, emergency shelters, and transitional shelters, as defined by section 356D-121, Hawaii Revised Statutes;
- (2) Outreach or support services, or both, to unsheltered homeless, at-risk homeless, and those residing in homeless facilities, including emergency shelters and transitional shelters, pursuant to the purchase of service agreements under chapter 42F, Hawaii Revised Statutes; and
- (3) The provision of continual operational funds to provide matching funds for shelter plus care grants and supportive housing programs and operational funds for nonprofit agencies to develop affordable housing.

The sum appropriated shall be expended by the Hawaii public housing authority for the purposes of this Act.

**PART III. INDIGENOUS HAWAIIAN ARCHITECTURE**

SECTION 7. Section 46-1.55, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§46-1.55]]~~ **Indigenous Hawaiian architecture.** (a) Each county shall adopt ordinances allowing the exercise of indigenous native Hawaiian architectural practices, styles, customs, techniques, and materials historically employed by native Hawaiians, in the county’s building code, including but not limited to residential and other structures comprised of either rock wall or wood frame walls covered by thatches of different native grasses or other natural material for roofs.

(b) The application of indigenous Hawaiian architecture shall be permitted in all zoning districts; provided it is consistent with the intent and purpose of the uniquely designated, special, or historic district.

(c) Each county shall adopt or amend its ordinances to implement this section no later than March 31, 2008. The ordinance adopted by Maui county shall serve as a model.”

**PART IV.**

SECTION 8. The appropriations made in sections 5 and 6 of this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all appropriations that are unencumbered as of June 30, 2010, shall lapse as of that date into the appropriate fund.

SECTION 9. 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 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 2007; provided that section 4 of this Act shall take effect on June 29, 2007.

(Approved June 28, 2007.)

**ACT 223**

H.B. NO. 1364

A Bill for an Act Relating to the State Rent Supplement Program.

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

SECTION 1. Section 356D-151, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§356D-151]]~~ **Rent supplements.** The authority is authorized to make and contract to make annual payments to a [~~“housing owner”~~] housing owner on behalf of a [~~“qualified tenant”~~,] qualified tenant as those terms are defined in this part, in amounts and under circumstances as are prescribed [~~in or pursuant to this part. No payment on behalf of a qualified tenant shall exceed a segregated amount of \$160 a month.~~] by the authority pursuant to rules adopted by the authority.”

SECTION 2. Section 356D-153, Hawaii Revised Statutes, is amended to read as follows:

~~“[§356D-153] Qualified tenant<sup>[;]</sup> defined~~[-];~~ preference.~~ (a) As used in this part, ~~[the term]~~ “qualified tenant” means any single person or family, pursuant to criteria and procedures established by the authority, who has been determined to have an income not exceeding the ~~[very low income]~~ income limit as determined by the authority pursuant to rules adopted by the authority; provided that the income limit shall not exceed ninety-five per cent of the annual median income as determined by the United States Department of Housing and Urban Development; provided further that the qualified tenant’s primary place of residence shall be in the State or the qualified tenant intends to make the State the qualified tenant’s primary place of residence. The terms “qualified tenant” and “tenant” shall include a person or family who satisfies the foregoing requirements and is a member of a cooperative ~~[who satisfies the foregoing requirements and]~~ who, upon resale of the member’s membership to the cooperative, will not be reimbursed for more than fifty per cent of any equity increment accumulated through payments under this part.

With respect to members of a cooperative, as used in this part, the terms “rental” and “rental charges” mean the charges under the occupancy agreements between the members and the cooperative.

(b) The authority shall give preference to qualified tenants with incomes at or below eighty per cent of the annual median income as determined by the United States Department of Housing and Urban Development.”

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

SECTION 4. This Act shall take effect on January 1, 2008.

(Approved June 28, 2007.)

## ACT 224

H.B. NO. 1323

A Bill for an Act Relating to Captive Insurance.

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

SECTION 1. Section 431:19-116, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each captive insurance company licensed to do business in this State shall pay to the director of finance through the commissioner a tax on gross premiums on or before March 1 of each year, as follows:

- (1) .25 per cent on \$0 to \$25,000,000 of gross premiums for insurance written on all risks or property resident, situated, or located within this State, and on risks and property situated elsewhere upon which no premium tax is otherwise paid during the year ending on the preceding December 31, less return premiums and less any reinsurance accepted;
- (2) .15 per cent on more than \$25,000,000, to \$50,000,000 of gross premiums for insurance written on all risks or property resident, situated, or located within this State, and on risks and property situated else-

where upon which no premium tax is otherwise paid during the year ending on the preceding December 31, less return premiums and less any reinsurance accepted; ~~and~~

- (3) .05 per cent on more than \$50,000,000, to \$250,000,000 of gross premiums for insurance written on all risks or property resident, situated, or located within this State, and on risks and property situated elsewhere upon which no premium tax is otherwise paid during the year ending on the preceding December 31, less return premiums and less any reinsurance accepted~~[-]; and~~
- (4) 0.00 per cent on more than \$250,000,000 of gross premiums for insurance written on all risks or property resident, situated, or located within this State, and on risks and property situated elsewhere upon which no premium tax is otherwise paid during the year ending on the preceding December 31, less return premiums and less any reinsurance accepted;

provided that the annual maximum aggregate tax on gross premiums to be paid by a captive insurance company shall not exceed \$200,000.’’

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect on July 1, 2007.

(Approved June 28, 2007.)

**Note**

- 1. Should be Ramseyer both.

**ACT 225**

H.B. NO. 317

A Bill for an Act Relating to Professional Employment Organizations.

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

SECTION 1. The purpose of this Act is to eliminate duplicative taxation and thereby allow Hawaii businesses to increase efficiency and cost savings by contracting to have their payroll and payroll-related functions performed by a professional employment organization. Since the contracting company makes general excise tax payments on the funds used for payroll, it is appropriate to exempt the contracted professional employment organization from further taxation on the same payroll moneys. The general excise tax would still apply to the fee paid to the professional employment organization for performing the contracted payroll services. Hawaii’s businesses have not been able to take advantage of the rapidly growing mainland trend of using professional employment organizations because the taxes on payroll pass-through moneys can be substantially more than the fee for those services.

This tax exemption has precedent in Hawaii law. For example, there is a similar exemption for the funds that hotel management companies receive from the hotel they manage, in reimbursement for performing payroll and related functions.

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

**“CHAPTER  
PROFESSIONAL EMPLOYMENT ORGANIZATIONS**

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

“Assigned employee” means an employee under a professional employment organization arrangement whose work is performed in the state. The term does not include an employee hired to support or supplement a client company’s work force as temporary help. “Assigned employee” has the same meaning as the term “leased employee” as defined in section 414(n) (with respect to employee leasing) of the Internal Revenue Code of 1986, as amended.

“Client company” means a person that contracts with a professional employment organization and is assigned employees by the professional employment organization under that contract.

“Professional employment organization” means a business entity that offers to co-employ employees that are assigned to the work sites of its client companies.

“Professional employment organization services” means an arrangement by which co-employees of a professional employment organization are assigned to work at the client company and the assigned employee’s assignment is intended to be of a long-term or continuing nature, rather than temporary. The term does not include temporary help.

“Temporary help” means an arrangement by which an organization hires its own employees and assigns them to a client company to support or supplement the client’s work force in a special situation, including:

- (1) An employee absence;
- (2) A temporary skill shortage;
- (3) A seasonal workload; or
- (4) A special assignment or project.

§ -2 **Professional employment organization; employee rights; payroll cost exemption.** (a) Where any client company uses the services of assigned employees and co-employs assigned employees with a professional employment organization, the client company and the professional employment organization, with respect to the assigned employees, shall not be exempt from the requirements of any federal, state, or county law, including labor or employment laws, collective bargaining rights, anti-discrimination provisions, or other laws with respect to the protection and rights of employees, including chapters 377 and 378, that would apply to the assigned employees if the assigned employees were employees of the client company alone, and were not co-employees of the professional employment organization.

These employee rights shall not be abrogated by any contract or agreement between the client company and the professional employment organization, or the professional employment organization and the assigned employee, which contains terms or conditions that could not be lawfully contained in a contract or agreement directly between the client company and the assigned employee in which no professional employment organization is involved. Notwithstanding any statute, local ordinance, executive order, rule, or regulation to the contrary, where the laws, rights, and protections referred to in this section define or require a determination of the “employer”, the employer shall be deemed to be the client company and not the professional employment organization. The department of labor and industrial relations shall notify the department of taxation in writing of any violation of this subsection.

(b) The client company shall be deemed to have satisfied its obligations with respect to any assigned employee under any applicable law, including, without

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limitation, workers' compensation laws including chapter 386, employee insurance coverage laws including chapters 383, 385, 392, and 393, and tax withholding and reporting laws, if and to the extent that those obligations are satisfied by the professional employment organization acting in its capacity as co-employer of such assigned employee.

(c) Amounts received by a professional employment organization from a client company in amounts equal to and that are disbursed by the professional employment organization for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick leave, health benefits, and similar employment benefits with respect to assigned employees at a client company shall not be subject to the general excise tax as provided by section 237-24.75.

(d) The general excise tax exemption under section 237-24.75 shall not apply to the professional employment organization if:

- (1) By or through any contract between the client company and any professional employment organization, or otherwise, employees are excluded from any employee rights or employee benefits required by law to be provided to employees of the client company by the client company; or
- (2) The professional employment organization fails to pay any tax withholding for assigned employees or any federal or state taxes for which the professional employment organization is responsible."

SECTION 3. Section 237-24.75, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]~~§237-24.75~~[H]~~ **Additional exemptions.** In addition to the amounts exempt under section 237-24, this chapter shall not apply to amounts received ~~[as]~~:

- (1) As a beverage container deposit collected under chapter 342G, part VIII[-]; and
- (2) By a professional employment organization from a client company equal to amounts that are disbursed by the professional employment organization for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick leave, health benefits, and similar employment benefits with respect to assigned employees at a client company; provided that this exemption shall not apply to a professional employment organization upon failure of the professional employment organization to collect, account for, and pay over any income tax withholding for assigned employees or any federal or state taxes for which the professional employment organization is responsible. As used in this paragraph, “professional employment organization”, “client company”, and “assigned employee” shall have the meanings provided in section -1.”

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

SECTION 5. This Act shall take effect on July 1, 2007; provided that section 3 shall apply to gross income or gross proceeds received after June 30, 2007.

(Approved June 28, 2007.)

## ACT 226

H.B. NO. 71

A Bill for an Act Relating to Nurse Aides.

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

SECTION 1. The legislature recognizes that 42 United States Code sections 1395i-3 and 1396r require nurse aides working in nursing facilities participating in medicare and medicaid programs to be certified.

The purpose of this Act is to provide for the certification and recertification of nurse aides who work in nursing facilities participating in medicare and medicaid programs and in other state-licensed and state-certified health care settings. Certifying these nurse aides will allow the department of commerce and consumer affairs, the department of human services, and the department of health to monitor and evaluate the quality and competency of the nurse aides practicing in the state.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§321- Certified nurse aides; enforcement.** The department shall adopt rules pursuant to chapter 91 relating to:

- (1) The investigation of:
  - (A) Abuse or neglect by a certified nurse aide working in a health care setting licensed or certified by the department; and
  - (B) Misappropriation of an individual’s property by a certified nurse aide working in a health care setting licensed or certified by the department; and
- (2) Action taken against a certified nurse aide as a result of an investigation pursuant to paragraph (1).”

SECTION 3. Chapter 346, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§346-A Certified nurse aides; training programs and recertification.** The director shall:

- (1) Approve training programs for nurse aides and ensure that the training programs comply with all applicable federal and state requirements;
- (2) Approve and arrange for the recertification process for nurse aides who work in medicare or medicaid certified nursing facilities; and
- (3) Approve and arrange for the recertification process for nurse aides who work in state-licensed or state-certified health care settings.

**§346-B Certified nurse aides; enforcement.** The department shall adopt rules pursuant to chapter 91 relating to:

- (1) The investigation of:
  - (A) Abuse or neglect by a certified nurse aide working in a health care setting licensed or certified by the department; and
  - (B) Misappropriation of an individual’s property by a certified nurse aide working in a health care setting licensed or certified by the department; and
- (2) Action taken against a certified nurse aide as a result of an investigation pursuant to paragraph (1).”

SECTION 4. Chapter 457A, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

**“§457A-A Definitions.** As used in this chapter:

“Certified nurse aide” means a nurse aide who has met the requirements for certification under section 457A-C or 457A-D.

“Director” means the director of commerce and consumer affairs.

“Medicare or medicaid certified nursing facility” means any intermediate care facility or skilled nursing facility licensed pursuant to section 321-11(10) and certified by the department of health in accordance with 42 United States Code sections 1395i-3 and 1396r.

“Medicare or medicaid nurse aide” means a certified nurse aide who works in a medicare or medicaid certified nursing facility.

“Nurse aide” means a person who performs a variety of duties relating to patients and patient care while working under the supervision of a nurse, including 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.

“State-licensed or state-certified health care settings” means health care settings, other than a medicare or medicaid certified nursing facilities, which are regulated by the department of health or the department of human services.

“Substantiated finding” means documentation of an investigation by the State that leads the State to conclude that an allegation is valid, including:

- (1) The nature of the allegation and the evidence that led to the conclusion;
- (2) The date of the hearing, if the individual chose to have one, and its outcome;
- (3) A statement of the individual disputing the allegation, if the individual chose to make one; or
- (4) A criminal conviction.

**§457A-B Certification required.** Except as otherwise provided in this chapter, no person shall:

- (1) Represent one’s self as a certified nurse aide;
- (2) Imply, in any manner, that one’s self is a certified nurse aide; or
- (3) Use the abbreviation “C.N.A.” or any other words, letters, signs, or devices to identify one’s self as a certified nurse aide;

without having first obtained certification as provided in this chapter.

**§457A-C Medicare or medicaid nurse aide certification.** (a) To be certified as a medicare or medicaid nurse aide, an applicant shall successfully complete:

- (1) Training in a training program approved by the director of human services under section 346-A; and
- (2) A nurse aide examination approved by the director.

(b) No person shall be permitted to take the examination who has not complied with the training requirements established by the director of human services in accordance with 42 United States Code sections 1395i-3 and 1396r.

(c) Reciprocity shall be granted to nurse aides who have completed a state-approved program that meets both federal and state requirements.

(d) Nurse aides employed in medicare or medicaid certified nursing facilities shall meet both federal and state requirements.

(e) Maintenance requirements for the recertification process shall be on a biennial basis, and shall include an annual performance review and in-service

training and employment in a medicare or medicaid facility as required by federal and state law.

(f) No charge shall be imposed on medicare or medicaid certified nurse aides for the maintenance of the nurse aide registry.

**§457A-D Nurse aide certification for state-licensed or state-certified health care settings.** (a) This certification applies to nurse aides working in state-licensed and state-certified health care settings other than a medicare or medicaid certified nursing facility.

(b) To be certified, an applicant shall successfully complete:

- (1) Training in a training program approved by the director of human services under section 346-A; and
- (2) A nurse aide examination approved by the director.

(c) Fees may be imposed for services rendered to carry out the purposes of this section.

(d) Reciprocity shall be granted to qualified nurse aides who have completed a state-approved program, the requirements of which are comparable to the requirements of this chapter.

(e) Maintenance requirements for the recertification process shall be required on a biennial basis and shall include a competency evaluation approved by the department of human services, and employment in a state-licensed or state-certified health care setting.”

SECTION 5. Section 457A-1, Hawaii Revised Statutes, is amended to read as follows:

**“§457A-1 Findings and purpose.** (a) The legislature recognizes that 42 United States Code [~~§1395i-3 and §1396R~~] sections 1395i-3 and 1396r require nurse aides working in nursing facilities participating in medicare and medicaid programs to be certified.

(b) The legislature also recognizes that nurse aides who work in state-licensed or state-certified health care settings should be certified for the purpose of consumer safety and held to similar standards of competency and evaluation appropriate for these settings. This chapter implements 42 United States Code [~~§1395i-3 and §1396R~~] sections 1395i-3 and 1396r with respect to:

- (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 working<sup>1</sup> 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.]”~~

SECTION 6. Section 457A-2, Hawaii Revised Statutes, is amended to read as follows:

**“§457A-2 Implementation.** (a) The director [~~of commerce and consumer affairs~~] shall implement the provisions of this chapter, in accordance with 42 United States Code [~~§1395i-3 and §1396R as they~~] sections 1395i-3 and 1396r, that relate [~~only~~] to [~~establishing~~]:

- (1) The minimum requirements and standards [~~necessary~~] for certification as a nurse aide;
- (2) Examination requirements, including the passing score;
- (3) Maintenance requirements for continued certification on a biennial basis; and
- (4) Implementation of a certified nurse aide registry.

(b) The director of health shall implement this chapter in accordance with 42 United States Code sections 1395i-3 and 1396r, that relate to disciplining certified nurse aides who are employed in:

- (1) Nursing facilities participating in medicare and medicaid programs; and
- (2) Health care settings licensed or certified by the department of health.

(c) The director of human services shall implement this chapter in accordance with 42 United States Code sections 1395i-3 and 1396r, that relate to:

- (1) Training programs for nurse aides and recertification; and
- (2) Disciplining of certified nurse aides employed in health care settings licensed or certified by the department of human services.’’

SECTION 7. Section 457A-3, Hawaii Revised Statutes, is amended to read as follows:

“**457A-3 Power of director.** (a) The director, in accordance with chapters 91 and 92, shall adopt rules [~~that may be necessary~~] to implement the provisions of this chapter in accordance with 42 United States Code [~~§1395i-3 and §1396R, as well as~~] sections 1395i-3 and 1396r and the federal regulations adopted pursuant thereto, [~~as they~~] that relate [~~only~~] to [~~establishing~~]:

- (1) The minimum requirements necessary for certification as a nurse aide;
- (2) Examination requirements, including the passing score and provisions for contesting examination results;
- (3) Maintenance requirements for continued certification; and
- (4) Implementation and maintenance of a nurse aide registry[.] of certified nurse aides employed in medicare or medicaid certified nursing facilities and certified nurse aides in other state-licensed and state-certified health care settings.

(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~~] that shall include the names of certified nurse aides, their places of employment, and [~~disciplinary actions. Disciplinary actions~~] all information that is required to be reported by the department of health and the department of human services. The director’s role, with regard to the disciplining of certified nurse aides, shall be limited to the placement [~~of substantiated findings from~~] into the certified nurse aide registry of all information and substantiated findings from the department of health [~~into the nurse aide registry within ten working days of court settlement.~~] and the department of human services, as required by 42 United States Code sections 1395i-3 and 1396r, within ten working days of the finding, which information shall permanently remain in the registry except if:

- (1) The finding was made in error;
- (2) The individual is found not guilty in court; or
- (3) The State receives notification of the individual’s death.’’

SECTION 8. Any nurse aide who is employed in a state-licensed or state-certified health care setting and who is recertified by July 1, 2007, may be recertified on a biennial basis under chapter 457A, Hawaii Revised Statutes, if the nurse aide passes, by December 31, 2008, a proficiency evaluation approved by the department

of human services. If the nurse aide fails to pass the proficiency evaluation, the nurse aide shall apply for certification as a new applicant and undergo recertification under chapter 457A, Hawaii Revised Statutes.

SECTION 9. In codifying the new sections added by sections 3 and 4 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 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

SECTION 11. This Act shall take effect upon approval.

(Approved June 28, 2007.)

#### Notes

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

## ACT 227

H.B. NO. 90

A Bill for an Act Relating to Insurance.

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

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new article to be appropriately designated and to read as follows:

### “ARTICLE MARKET CONDUCT

**§431: -1 Legislative intent.** The purpose of this article is to establish a framework for insurance division market conduct actions, including:

- (1) Processes and systems for identifying, assessing, and prioritizing market conduct problems that have a substantial adverse impact on consumers, policyholders, and claimants;
- (2) Market conduct actions by the commissioner to substantiate those market conduct problems and a means to remedy significant market conduct problems; and
- (3) Procedures to communicate and coordinate market conduct actions among states to foster the most efficient and effective use of resources.

**§431: -2 Definitions.** As used in this article, unless the context indicates otherwise:

“Commissioner” means the insurance commissioner of the State of Hawaii.

“Complaint” means a written or documented oral communication to the insurance division primarily expressing a grievance, meaning an expression of dissatisfaction. For health companies, a grievance is a written complaint submitted by or on behalf of a covered person.

“Comprehensive market conduct examination” means a review of one or more lines of business of an insurer domiciled in this State that is not conducted for cause. The term includes a review of rating, tier classification, underwriting, policyholder service, claims, marketing and sales, producer licensing, complaint handling practices, and compliance procedures and policies.

“Insurance compliance audit” means a voluntary, internal evaluation, review, assessment, audit, or investigation for the purpose of identifying or preventing noncompliance with, or promoting compliance with laws, regulations, orders, or industry or professional standards, which is conducted by or on behalf of an insurer, or which involves an insurer activity regulated by the commissioner.

“Insurance compliance self-evaluative audit document” means documents prepared as a result of or in connection with an insurance compliance audit. An insurance compliance self-evaluative audit document may include a written response to the findings of an insurance compliance audit. An insurance compliance self-evaluative audit document may include, but is not limited to, as applicable, field notes and records of observations, findings, opinions, suggestions, conclusions, drafts, memoranda, drawings, photographs, exhibits, computer generated or electronically recorded information, telephone records, maps, charts, graphs, and surveys; provided that this supporting information is collected or developed for the primary purpose and in the course of an insurance compliance audit.

“Market analysis” means a process whereby market conduct surveillance personnel collect and analyze information from filed schedules, surveys, required reports, and other sources to develop a baseline and to identify patterns or practices of insurers licensed to do business in this State that deviate significantly from the norm or that may pose a potential risk to the insurance consumer.

“Market conduct action” means any of the full range of activities that the commissioner may initiate to assess the market and practices of individual insurers, beginning with market analyses and extending to targeted examinations. The commissioner’s activities to resolve an individual consumer complaint or other reports of a specific instance of misconduct are not market conduct actions for purposes of this article.

“Market conduct examination” means the examination of the insurance operations of an insurer licensed to do business in this State to evaluate compliance with the applicable laws and rules of this State. A market conduct examination may be either a comprehensive examination or a targeted examination. A market conduct examination is separate and distinct from a financial examination of an insurer performed pursuant to article 5, but may be conducted at the same time.

“Market conduct surveillance personnel” means those individuals employed or contracted by the commissioner to collect, analyze, review, or act on information about the insurance marketplace, which identifies patterns or practices of insurers.

“National Association of Insurance Commissioners” means the organization of insurance regulators from the fifty states, the District of Columbia, and the four United States territories.

“Qualified contract examiner” means a person under contract to the commissioner, who is qualified by education, experience and, where applicable, professional designations, to perform market conduct actions.

“Targeted examination” means a focused examination conducted for cause, based on the results of market analysis indicating the need to review either a specific line of business or specific business practices, including but not limited to underwriting and rating, marketing and sales, complaint handling operations, advertising materials, licensing, policyholder services, non-forfeitures, claims handling, or policy forms and filings. A targeted examination may be conducted by desk examination or by an on-site examination.

“Third party model or product” means a model or product provided by an entity separate from and not under direct or indirect corporate control of the insurer using the model or product.

**§431: -3 Domestic responsibility and deference to other states.** (a) The commissioner shall be responsible for conducting market conduct examinations for policyholder protection, which shall be accomplished by comprehensive or targeted examinations of domestic insurers or the affiliates of domestic insurers and targeted examinations of foreign insurers or the affiliates of foreign insurers as deemed necessary by the commissioner, based on the results of market analysis. The commissioner may delegate responsibility for conducting an examination of a domestic insurer, foreign insurer, or an affiliate of an insurer to the insurance commissioner of another state if that state's insurance commissioner agrees to accept the delegated responsibility for the examination.

(b) The commissioner may delegate responsibility to an insurance commissioner of a state in which the domestic insurer, foreign insurer, or affiliate has a significant number of policies or significant premium volume, as determined by the commissioner by rule.

(c) If the commissioner elects to delegate responsibility for examining an insurer, the commissioner shall accept a report of the examination prepared by the commissioner to whom the responsibility has been delegated.

(d) In lieu of conducting a market conduct examination of an insurer, the commissioner shall accept a report of a market conduct examination on the insurer prepared by the insurance commissioner of the insurer's state of domicile or another state; provided:

- (1) The laws of that state applicable to the subject of the examination are deemed by the commissioner to be substantially similar to those of this State;
- (2) The examining state has a market conduct surveillance system that the commissioner deems comparable to the market conduct surveillance system required under this article; and
- (3) The examination from the other state's insurance commissioner has been conducted within the past three years.

(e) If the insurance commissioner to whom the examination responsibility was delegated pursuant to subsection (a) or the report of a market conduct examination prepared by the insurance commissioner of another state pursuant to subsection (d), did not evaluate the specific area or issue of concern to the commissioner, the commissioner may pursue a targeted examination or market analysis of the unexamined area pursuant to this article.

(f) The commissioner's determination under subsection (d) is discretionary and is not subject to appeal.

(g) Subject to a determination under subsection (d), if a market conduct examination conducted by another state results in a finding that an insurer should modify a specific practice or procedure, the commissioner shall accept documentation that the insurer has made a similar modification in this State, in lieu of initiating a market conduct action or examination related to that practice or procedure. The commissioner may require other or additional practice or procedure modifications as are necessary to achieve compliance with specific state laws or regulations, which differ substantially from those of the state that conducted the examination.

**§431: -4 Market analysis procedures.** (a) The commissioner shall gather information from data currently available to the insurance division, as well as surveys and required reporting requirements, information collected by the National Association of Insurance Commissioners and a variety of other sources in both the public and private sectors, information from within and outside the insurance industry from objective sources, information from websites for insurers, agents, and other organizations, and information from other sources; provided that prior to use, the sources are published at least annually in a bulletin or circular.

The information shall be analyzed to develop a baseline understanding of the marketplace and to identify for further review insurers or practices that deviate significantly from the norm or that may pose a potential risk to the insurance consumer. The commissioner shall use procedures that are substantially similar to the National Association of Insurance Commissioners' guidelines on market analysis as one resource in performing this analysis.

The commissioner shall use the following policies and procedures in performing the analysis required under this section:

- (1) Identify key lines of business for systematic review; and
- (2) Identify companies for further analysis based on available information.
- (b) If the analysis compels the commissioner to inquire further into a particular insurer or practice, the following continuum of market conduct actions may be considered prior to conducting a targeted, on-site market conduct examination. The action selected shall be made known to the insurer in writing. These actions may include but are not limited to:
  - (1) Correspondence with the insurer;
  - (2) Insurer interviews;
  - (3) Information gathering;
  - (4) Policy and procedure reviews;
  - (5) Interrogatories; and
  - (6) Review of insurer self-evaluation and compliance programs, including membership in an organization such as a best-practice organization that has as its central mission the promotion of high ethical standards in the marketplace.
- (c) The commissioner shall select a market conduct action that is cost-effective for the insurance division and the insurer, while still protecting the insurance consumer.
- (d) The commissioner shall take those steps reasonably necessary to:
  - (1) Eliminate requests for information that duplicate:
    - (A) Information provided as part of an insurer's annual financial statement, the annual market conduct statement of the National Association of Insurance Commissioners, or other required schedules, surveys, or reports that are regularly submitted to the commissioner; or
    - (B) Data requests made by other states if that information is available to the commissioner, unless the information is state-specific; and
  - (2) Coordinate market conduct actions and findings with other states.

**§431: -5 Protocols for market conduct actions.** (a) Market conduct actions taken as a result of a market analysis shall focus on the general business practices and compliance activities of insurers, rather than identifying infrequent or unintentional random errors that do not cause consumer harm.

(b) The commissioner may determine the frequency and timing of such market conduct actions. The timing shall depend upon the specific market conduct action to be initiated, unless extraordinary circumstances indicating a risk to consumers require immediate action.

If the commissioner has information that more than one insurer is engaged in common practices that may violate the law, the commissioner may schedule and coordinate multiple examinations simultaneously.

(c) The insurer shall be notified of any practice or procedure which is to be the subject of a market conduct action and shall be given an opportunity to resolve such matters that arise as a result of a market analysis to the satisfaction of the commissioner before any additional market conduct actions are taken against the insurer. If the insurer has modified the practice or procedure as a result of a market

conduct action taken by the insurance commissioner of another state, the commissioner shall accept appropriate documentation that the insurer has satisfactorily modified the practice or procedure and made similar modification to such practice or procedure in this State.

**§431: -6 Protocols for market conduct examinations.** (a) When market analysis identifies a pattern of conduct or practice by an insurer which requires further investigation, and less intrusive market conduct actions identified in section 431: -4(b) are not appropriate, the commissioner has the discretion to conduct targeted market conduct examinations in accordance with procedures that are substantially similar to the National Association of Insurance Commissioners' guidelines on market conduct examination procedures.

(b) Causes or conditions, if identified through market analysis, that may trigger a targeted examination, are:

- (1) Information obtained from a market conduct annual statement, market survey, or report of financial examination indicating potential fraud, that the insurer is conducting the business of insurance without a license or is engaged in a potential pattern of unfair trade practice in violation of article 13;
- (2) A number of complaints against the insurer or a complaint ratio sufficient to indicate potential fraud, conducting the business of insurance without a license, or a potential pattern of unfair trade practice in violation of article 13. For the purposes of this section, a complaint ratio shall be determined for each line of business;
- (3) Information obtained from other objective sources, such as published advertising materials indicating potential fraud, conducting the business of insurance without a license, or evidencing a potential pattern of unfair trade practice in violation of article 13; or
- (4) Patterns of violations of this chapter and the rules adopted thereunder regarding rate filings, form filings, and termination requirements.

(c) If the insurer to be examined is not a domestic insurer, the commissioner shall communicate with and may coordinate the examination with the insurance commissioner of the state in which the insurer is organized.

(d) Concomitant with the notification requirements established in subsection (f), the commissioner shall post notification on the National Association of Insurance Commissioners' examination tracking system, or comparable product as determined by the commissioner, that a market conduct examination has been scheduled.

(e) Prior to commencement of a targeted on-site market conduct examination, market conduct surveillance personnel shall prepare a work plan and proposed budget. The proposed budget, which shall be reasonable for the scope of the examination, and work plan, shall be provided to the insurer under examination. Market conduct examinations, to the extent feasible, shall use desk examinations and data requests prior to a targeted on-site examination.

Market conduct examinations shall be conducted in accordance with procedures that are substantially similar to the National Association of Insurance Commissioners' guidelines on market conduct examination procedures.

Prior to the conclusion of a market conduct examination, the individual among the market conduct surveillance personnel who is designated as the examiner-in-charge shall schedule an exit conference with the insurer.

(f) Announcement of the examination shall be sent to the insurer and posted on the National Association of Insurance Commissioners' examination tracking system or comparable product, as determined by the commissioner, as soon as possible but not later than sixty days before the estimated commencement of the examination. The announcement shall contain:

- (1) The name and address of the insurer being examined;
- (2) The name and contact information of the examiner-in-charge;
- (3) The reason for and the scope of the targeted examination;
- (4) The date the examination is scheduled to begin;
- (5) Identification of any non-insurance department personnel who will assist in the examination, if known at the time the notice is prepared;
- (6) A time estimate for the examination;
- (7) A budget and work plan for the examination and identification of reasonable and necessary costs and fees that will be included in the bill, if the cost of the examination is billed to the insurer; and
- (8) A request for the insurer to name its examination coordinator.

(g) If a targeted examination is expanded beyond the reasons provided to the insurer in the notice of the examination required under this section, the commissioner shall provide written notice to the insurer, explaining the extent of the expansion and the reasons for the expansion. The commissioner shall provide a revised work plan to the insurer before the beginning of any significantly expanded examination, unless extraordinary circumstances indicating a risk to consumers require immediate action.

(h) The commissioner shall conduct a pre-examination conference with the insurer examination coordinator and key personnel to clarify expectations thirty days prior to commencement of the examination.

(i) In requesting the information, the commissioner shall use the National Association of Insurance Commissioners' standard data request or comparable product.

An insurer responding to a commissioner's request to produce information shall produce it as it is kept in the usual course of business or shall organize and label it to correspond with the categories in the request.

If a commissioner's request does not specify the form or forms for producing electronically stored information, an insurer responding to the request shall produce the information in a form or forms in which the insurer ordinarily maintains it or in a form or forms that are reasonably usable.

An insurer responding to an information request need not produce the same electronically stored information in more than one form.

An insurer responding to an information request need not provide the electronically stored information from sources that the company identifies as not reasonably accessible because of undue burden or cost.

(j) The commissioner shall adhere to the following timeline, unless a mutual agreement is reached with the insurer to modify the timeline:

- (1) The commissioner shall deliver the draft report to the insurer within sixty days of the completion of the examination. Completion of the examination shall be defined as the date the commissioner confirms in writing that the examination is completed;
- (2) The insurer shall respond with written comments within thirty days of receipt of the draft report;
- (3) The commissioner shall make a good faith effort to resolve issues and prepare a final report within thirty days of receipt of the insurer's written comments, unless a mutual agreement is reached to extend the deadline. The commissioner may make corrections and other changes, as appropriate; and
- (4) The insurer, within thirty days, shall accept the final report, accept the findings of the report, file written comments, or request a hearing. An additional thirty days shall be allowed if agreed to by the commissioner and the insurer. Any such hearing request shall be made in writing and shall follow chapter 91.

The final written and electronic market conduct report shall include the insurer's written response and any agreed-to corrections or changes. The response may be included either as an appendix or in the text of the examination report. The insurer shall not be obligated to submit a response. References to specific individuals by name shall be limited to an acknowledgement of their involvement in the conduct of the examination.

(k) Upon adoption of the examination report pursuant to subsection (j), the commissioner shall continue to hold the content of the examination report as private and confidential for a period of thirty days, except as provided in this subsection. During this time, the report shall not be subject to subpoena and shall not be subject to discovery or admissible as evidence in any private action; provided that no court of competent jurisdiction has ordered production. Thereafter, the commissioner shall open the report for public inspection; provided no court of competent jurisdiction has stayed its publication. This section shall not be construed to limit the commissioner's authority to use any final or preliminary market conduct examination report, and examiner or insurer work papers or other documents, or any other information discovered or developed during the course of an examination in the furtherance of any legal or regulatory action that the commissioner, in the commissioner's sole discretion, may deem appropriate.

Nothing contained in this article shall prevent or be construed as preventing the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance division of this or any other state or agency of the federal government at any time; provided that the agency or office receiving the report or matters relating thereto agrees to hold it confidential and in a manner consistent with this article.

(l) Where the reasonable and necessary cost and fees of a market conduct examination are to be assessed against the insurer under examination, the costs and fees shall be consistent with that otherwise authorized by law. Costs and fees shall be itemized and bills shall be provided to the insurer on a monthly basis for review prior to submission for payment.

The commissioner shall maintain active management and oversight of examination costs and fees, including costs and fees associated with the use of insurance division personnel and examiners and with retaining qualified contract examiners necessary to perform an examination. To the extent the commissioner retains outside assistance, the commissioner shall have written protocols that:

- (1) Clearly identify the types of functions subject to outsourcing;
- (2) Provide specific timelines for completion of the outsourced review;
- (3) Require disclosure of contract examiners' recommendations;
- (4) Establish and use a dispute resolution or arbitration mechanism to resolve conflicts with insurers regarding examination costs and fees; and
- (5) Require disclosure of the terms of the contracts with the outside consultants that will be used, specifically the costs and fees or hourly rates, or both, that can be charged.

The commissioner shall review and affirmatively endorse detailed billings from the qualified contract examiner before the detailed billings are sent to the insurer.

The commissioner may contract in accordance with applicable state contracting procedures, for qualified contract actuaries and examiners as the commissioner deems necessary; provided that the compensation and per diem allowances paid to the contract persons shall not exceed one hundred twenty-five per cent of the compensation and per diem allowances for examiners set forth in the guidelines adopted by the National Association of Insurance Commissioners, unless the com-

missioner demonstrates that one hundred twenty-five per cent is inadequate under the circumstances of the examination.

(m) The commissioner may not conduct a comprehensive market conduct examination more frequently than once every three years. The commissioner may waive conducting a comprehensive market conduct examination based on market analysis.

**§431: -7 Confidentiality requirements.** (a) Except as otherwise provided by law, market conduct surveillance personnel shall have free and full access to all books and records, employees, officers, and directors, as practicable, of the insurer during regular business hours. An insurer using a third-party model or product for any of the activities under examination shall provide, upon the request of market conduct surveillance personnel, the details of those models or products to those personnel. All documents, whether from a third party or an insurer, including but not limited to working papers, third-party models or products, complaint logs, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in the course of any market conduct actions made pursuant to this article, or in the course of market analysis by the commissioner of the market conditions of an insurer, or obtained by the National Association of Insurance Commissioners as a result of any of the provisions of this article, shall be confidential by law and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

(b) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section.

(c) Market conduct surveillance personnel shall be vested with the power to issue subpoenas and examine insurer personnel under oath when such action is ordered by the commissioner.

(d) Notwithstanding any other law to the contrary, the commissioner may:

- (1) Share documents, materials, or other information, including confidential and privileged documents, materials, or information subject to subsection (a), with other state, federal, and international regulatory agencies, law enforcement authorities, and the National Association of Insurance Commissioners and its affiliates and subsidiaries; provided that the recipient agrees to and has the legal authority to maintain the confidentiality and privileged status of the documents, materials, communications, or other information;
- (2) Receive documents, materials, communications, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners and its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and
- (3) Enter into agreements governing the sharing and use of information consistent with this subsection.

(e) No insurer shall be compelled to disclose an insurance compliance self-evaluative audit document or waive any statutory or common law privilege, but may voluntarily disclose such document to the commissioner in response to any market analysis, market conduct action, or examination as provided in this article.

(f) To encourage insurance companies and persons conducting activities regulated under this code, both to conduct voluntary internal audits of their compli-

ance programs and management systems and to access and improve compliance with State and federal statutes, rules, and orders, an insurance compliance self-evaluative privilege is recognized to protect the confidentiality of communication relating to voluntary internal compliance with this State's insurance and other laws and that the public will benefit from incentives to identify and remedy insurance and other compliance problems. It is further declared that limited expansion of the protection against disclosure will encourage voluntary compliance and improve insurance market conduct quality and that the voluntary provisions of this section will not inhibit the exercise of the regulatory authority by those entrusted with protecting insurance consumers.

- (g)(1) Except as provided in subsections (h) and (i), an insurance compliance self-evaluative audit is privileged information and is not discoverable or admissible as evidence in any legal action in any civil, criminal, or administrative proceeding. The privilege created herein is a matter of substantive law of this State and is not merely a procedural matter governing civil or criminal procedures in the courts of this State;
- (2) If any company, person, or entity performs or directs the performance of an insurance compliance audit, an officer, employee or agent involved with the insurance audit, or any consultant who is hired for the purpose of performing the insurance compliance audit may not be examined in any civil, criminal, or administrative proceeding as to the insurance compliance audit or any insurance compliance self-evaluative audit document, as defined in this section. This subsection does not apply if the privilege set forth in subsection (g)(1) of this section is determined under subsection (h) or (i) not to apply;
- (3) A company may voluntarily submit, in connection with examinations conducted under this article, an insurance compliance self-evaluative audit document to the commissioner or the commissioner's designee, as a confidential document under this section without waiving the privilege set forth in this section to which the company would otherwise be entitled; provided, however, that the provisions in this section permitting the commissioner to make confidential documents public pursuant to this section and access to the National Association of Insurance Commissioners shall not apply to the insurance compliance self-evaluative audit document under other provisions of applicable law, any such report furnished to the commissioner shall not be provided to any other persons or entities<sup>1</sup> and shall be accorded the same confidentiality and other protections as provided above for voluntarily submitted documents. Any use of an insurance compliance self-evaluative audit document furnished as a result of the inappropriate treatment of customers has been remedied or that an appropriate plan for their remedy is in place.

A company's insurance compliance self-evaluative audit document submitted to the commissioner shall remain subject to all applicable statutory or common law privileges including, but not limited to, the work product doctrine, attorney-client privilege, or the subsequent remedial measures exclusion.

Any compliance self-evaluative audit document so submitted and in the possession of the commissioner shall remain the property of the company and shall not be subject to any disclosure or production under chapter 92;

- (4) Disclosure of an insurance compliance self-evaluative audit document to a governmental agency, whether voluntary or pursuant to compulsion of law, shall not constitute a waiver of the privilege set forth in

- subsection (g)(1) with respect to any other persons or any other governmental agencies;
- (h)(1) The privilege set forth in subsection (g) does not apply to the extent that it is expressly waived by the company that prepared or caused to be prepared the insurance compliance self-evaluative audit document;
    - (2) In a civil or administrative proceeding, a court of record, after an in camera review, may require disclosure of material for which the privilege set forth in subsection (g) is asserted, if the court determines one of the following:
      - (A) The privilege is asserted for a fraudulent purpose; or
      - (B) The material is not subject to the privilege;
    - (3) In a criminal proceeding, a court of record, after an in camera review, may require disclosure of material for which the privilege described in subsection (g) is asserted, if the court determines one of the following:
      - (A) The privilege is asserted for a fraudulent purpose;
      - (B) The material is not subject to the privilege; or
      - (C) The material contains evidence relevant to commission of a criminal offense under this code, and all three of the following factors are present:
        - (i) The commissioner or attorney general has a compelling need for the information; and
        - (ii) The information is not otherwise available; and
        - (iii) The commissioner or attorney general is unable to obtain the substantial equivalent of the information by any other means without incurring unreasonable cost and delay.
  - (i)(1) Within thirty days after the commissioner or attorney general serves on an insurer a written request by certified mail for disclosure of an insurance compliance self-evaluative audit document under this subsection, the company that prepared or caused the document to be prepared may file with the appropriate court a petition requesting an in camera hearing on whether the insurance compliance self-evaluative audit document or portions of the document are privileged or subject to disclosure. Failure by the company to file a petition waives the privilege for this request only;
    - (2) A company asserting the insurance compliance self-evaluative privilege in response to a request for disclosure under this subsection shall include in its request for an in camera hearing all of the information set forth in subsection (i)(5);
    - (3) Upon the filing of a petition under this subsection, the court shall issue an order scheduling, within forty-five days after the filing of the petition, an in camera hearing to determine whether the insurance compliance self-evaluative audit document or portions of the document are privileged under this section or subject to disclosure;
    - (4) The court, after an in camera review, may require disclosure of material for which the privilege in subsection (g) is asserted if the court determines, based upon its in camera review, that any one of the conditions set forth in subsection (h)(2)(A) and (B) is applicable as to a civil or administrative proceeding or that any one of the conditions set forth in subsection (h)(3)(A) through (C) is applicable as to a criminal proceeding. Upon making such a determination, the court may only compel the disclosure of those portions of an insurance compliance self-evaluative audit document relevant to issues in dispute in the underlying proceeding. Any compelled disclosure will not be considered to be a public document or be deemed to be a waiver of the

privilege for any other civil, criminal, or administrative proceeding. A party unsuccessfully opposing disclosure may apply to the court for an appropriate order protecting the document from further disclosure;

- (5) A company asserting the insurance compliance self-evaluative privilege in response to a request for disclosure under this subsection shall provide to the commissioner or attorney general, as the case may be, at the time of filing any objection to the disclosure, all of the following information:
- (A) The date of the insurance compliance self-evaluative audit document;
  - (B) The identity of the entity conducting the audit;
  - (C) The general nature of the activities covered by the insurance compliance audit; or
  - (D) An identification of the portions of the insurance compliance self-evaluative audit document for which the privilege is being asserted;

- (j)(1) A company asserting the insurance compliance self-evaluative privilege set forth in subsection (g) has the burden of demonstrating the applicability of the privilege. Once a company has established the applicability of the privilege, the party seeking disclosure under subsection (h)(2)(A) has the burden of proving that the privilege is asserted for a fraudulent purpose. The commissioner or attorney general seeking disclosure under subsection (h)(3) has the burden of proving the elements set forth in subsection (h)(3);

- (2) The parties may at any time stipulate in proceedings under subsection (h) or (i) to entry of an order directing that specific information contained in an insurance compliance self-evaluative audit document is or is not subject to the privilege provided under subsection (g). Any such stipulation may be limited to the instant proceeding and, absent specific language to the contrary, shall not be applicable to any other proceeding.

(k) The privilege set forth in subsection (g) shall not extend to any of the following:

- (1) Documents, communications, data, reports, or other information expressly required to be collected, developed, maintained, or reported to a regulatory agency pursuant to this Code, or other federal or State law;
- (2) Information obtained by observation or monitoring by any regulatory agency; or
- (3) Information contained from a source independent of the insurance compliance audit.

(l) As used in this section:

“Insurance compliance audit” means a voluntary, internal evaluation, review, assessment, audit, or investigation for the purpose of identifying or preventing non-compliance with, or promoting compliance with laws, regulations, orders, or industry or professional standards, which is conducted by or on behalf of a company licensed or regulated under this Code, or which involves an activity regulated under this Code.

“Insurance compliance self-evaluative audit document” means documents prepared as a result of or in connection with an insurance compliance audit. An insurance compliance self-evaluative audit document may include, but is not limited to, as applicable, field notes and records of observations, findings, opinions, suggestions, conclusions, drafts, memoranda, drawings, photographs, exhibits, computer-generated or electronically recorded information, phone records, maps, charts, graphs, and surveys, provided this supporting information is collected or developed for the primary purpose and in the course of an insurance compliance audit. An insurance compliance self-evaluative audit document also includes, but is not limited to, any of the following:

- (1) An insurance compliance audit report prepared by an auditor, who may be an employee of the company or an independent contractor, which may include the scope of the audit, the information gained in the audit, and conclusions and recommendations, with exhibits and appendices;
- (2) Memoranda and documents analyzing portions or all of the insurance compliance audit report and discussing potential implementation issues;
- (3) An implementation plan that addresses correcting past non-compliance, improving current compliance, and preventing future non-compliance; or
- (4) Analytic data generated in the course of conducting the insurance compliance audit.

(m) The insurance compliance self-evaluative privilege created by this legislation shall apply to all litigation or administrative proceedings pending at the effective date of this legislation.

(n) Nothing in this section nor the release of any self-evaluative audit document hereunder shall limit, waive, or abrogate the scope or nature of any statutory or common law privilege including, but not limited to, the work product doctrine, the attorney-client privilege, or the subsequent remedial measures exclusion.

**§431: -8 Market conduct surveillance personnel.** (a) Market conduct surveillance personnel shall be qualified by education, experience, and, where applicable, professional designations. The commissioner may supplement the in-house market conduct surveillance staff with qualified outside professional assistance if the commissioner determines that assistance is necessary.

(b) Market conduct surveillance personnel have a conflict of interest, either directly or indirectly, if they are affiliated with the management, have been employed by, or own a pecuniary interest in the insurer subject to any examination under this article within the most recent five years prior to the use of the personnel. This section shall not be construed to automatically preclude an individual from being:

- (1) A policyholder or claimant under an insurance policy;
- (2) A grantee of a mortgage or similar instrument on the individual's residence from a regulated entity if done under customary terms and in the ordinary course of business;
- (3) An investment owner in shares of regulated diversified investment companies; or
- (4) A settlor or beneficiary of a "blind trust" into which any otherwise permissible holdings have been placed.

**§431: -9 Immunity for market conduct surveillance personnel.** (a) No cause of action shall arise nor shall any liability be imposed against the commissioner, the commissioner's authorized representatives, or an examiner appointed by the commissioner for any statements made or conduct performed in good faith while carrying out this article.

(b) No cause of action shall arise, nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the commissioner, the commissioner's authorized representative, or the examiner pursuant to an examination made under this article, if the act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive.

(c) A person identified in subsection (a) shall be entitled to an award of attorney's fees and costs if the person is the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of activities in carrying out this article and the party bringing the action was not substantially justified in doing

so. For the purposes of this section, a proceeding is “substantially justified” if it had a reasonable basis in law or fact at the time that it was initiated.

(d) This section shall not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person identified in subsection (a).

**§431: -10 Fines and penalties.** (a) Fines and penalties levied pursuant to this article or other provisions of this chapter shall be consistent, reasonable, and justified.

(b) The commissioner shall take into consideration actions taken by insurers that maintain membership in best-practice organizations that exist to promote high ethical standards of conduct in the marketplace, and insurers that self-assess, self-report, and remediate problems detected to mitigate fines levied pursuant to this article.

**§431: -11 Data collection and participation in national market conduct databases.** (a) The commissioner shall collect and report market data to the market information systems of the National Association of Insurance Commissioners, including the complaint database system, the examination tracking system, and the regulatory information retrieval system, or other comparable successor products as determined by the commissioner. In addition to complaint data, the accuracy of insurer-specific information reported to the National Association of Insurance Commissioners to be used for market analysis purposes or as the basis for market conduct actions shall be reviewed by appropriate personnel in the insurance division and by the insurer.

(b) Information collected and maintained by the insurance division shall be compiled in a manner that meets the requirements of the National Association of Insurance Commissioners.

(c) After completion of any level of market analysis, prior to further market conduct action, the commissioner shall contact the insurer to review the analysis.

(d) An insurer responding to a commissioner’s request to produce information shall produce it as it is kept in the usual course of business or shall organize and label it to correspond with the categories in the demand.

If a commissioner’s request does not specify the form or forms for producing electronically stored information, an insurer responding to the request shall produce the information in a form or forms in which the insurer ordinarily maintains it or in a form or forms that are reasonably usable.

An insurer responding to an information request need not produce the same electronically stored information in more than one form.

An insurer responding to an information request need not provide the electronically stored information from sources that the insurer identifies as not reasonably accessible because of undue burden or cost.

**§431: -12 Coordination with other states through the National Association of Insurance Commissioners.** The commissioner shall share information and coordinate the insurance division’s market analysis and examination efforts with other states through the National Association of Insurance Commissioners.

**§431: -13 Additional duties of the commissioner.** (a) At least once per year, or more frequently if deemed necessary, the commissioner shall make available in an appropriate manner to insurers and other entities subject to the scope of this chapter, information on new laws and rules, enforcement actions, and other information the commissioner deems pertinent to ensure compliance with market conduct requirements.

(b) The commissioner shall designate a specific person or persons within the insurance division whose responsibilities shall include the receipt of information

from employees of insurers and licensed entities concerning violations of laws, as defined in this section. The person or persons shall be provided with proper training on the handling of the information, which shall be deemed a confidential communication for the purposes of this section.

(c) For any change made to a work product referenced in this article, which materially changes the way in which market analysis, market conduct actions, or market conduct examinations are conducted, the commissioner shall give notice and provide parties with an opportunity for a public hearing pursuant to chapter 91.

**§431: -14 Data calls.** Whether through market analysis, market conduct action, or in response to another regulatory request, any information provided in response to a data call from the commissioner or the commissioner’s designee, shall be treated as confidential and privileged. It shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. No waiver of privilege or confidentiality shall occur as a result of responding to a data call.”

SECTION 2. Section 432:1-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Article 2 [and], article 13, and article \_\_\_\_\_ of chapter 431, and the powers there granted to the commissioner, shall apply to managed care plans, health maintenance organizations, or medical indemnity or hospital service associations, which are owned or controlled by mutual benefit societies, so long as such application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations.”

SECTION 3. There is appropriated out of the compliance resolution fund the sum of \$318,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$365,000 or so much thereof as may be necessary for fiscal year 2008-2009 for the purposes of carrying out this Act.

The sums appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

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

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved June 29, 2007.)

**Note**

- 1. So in original.

**ACT 228**

H.B. NO. 24

A Bill for an Act Relating to Teachers.

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

SECTION 1. Section 302A-706, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the department the teacher national board certification incentive program to recognize and support exemplary teaching practice by supporting public school teachers who have achieved national board certifi-

cation under the certification program of the National Board for Professional Teaching Standards. The teacher national board certification incentive program shall provide:

- (1) A \$5,000 bonus per year for each public school teacher who maintains current national board certification;
- (2) \$1,500 upon completing the certification program of the National Board for Professional Teaching Standards; [and]
- (3) A reimbursement of the remainder of the national board certification application fee upon achievement of national board certification[-]; and
- (4) An additional \$5,000 bonus per year for each public school teacher who maintains current national board certification and who teaches at:
  - (A) A school that is in restructuring under the No Child Left Behind Act, Public Law 107-110;
  - (B) A school with a high turnover rate, as determined by the department;
  - (C) A school that is not making adequate yearly progress, but is not in restructuring under the No Child Left Behind Act, Public Law 107-110; or
  - (D) A hard-to-fill school, as determined by the department.’’

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2007-2008 to provide salary differentials for public school teachers who maintain current national board certification and teach at qualifying schools as provided by this Act.

The sum appropriated shall be expended by the department of education for the purposes of this Act.

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

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved June 29, 2007.)

## ACT 229

H.B. NO. 334

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Sopogy Inc., in the Development of Renewable Energy.

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

SECTION 1. The legislature finds that the development of clean electricity from a renewable and abundant resource, the sun, at a price lower than the market price and independent from oil price fluctuations is in the best interests of the public. Sopogy, Inc., specializes in the development, manufacture, and distribution of its proprietary concentrated solar power systems that generate electricity. The legislature finds that the construction of a solar farm power plant that Sopogy, Inc., seeks to create at the natural energy laboratory of Hawaii authority or at another suitable site in the state would demonstrate how electricity could be produced by using solar power systems.

For the foregoing reasons, the legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and is beneficial to the public health, safety, and general welfare.

## ACT 230

The legislature further finds that part V, chapter 39A, Hawaii Revised Statutes, permits the State to financially assist industrial enterprises through the issuance of special purpose revenue bonds and 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 of the State. The legislature finds that Sopogy, Inc., is an industrial enterprise meeting the qualifications for special purpose revenue bond assistance under part V, chapter 39A, Hawaii Revised Statutes. The special purpose revenue bonds authorized under this Act will provide low interest rate bond financing for the construction of a solar farm power plant at the natural energy laboratory of Hawaii authority or at another suitable site 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 a total amount not to exceed \$10,000,000, in one or more series, for the purpose of assisting Sopogy, Inc., with planning, designing, constructing, equipping, and operating Sopogy, Inc.'s solar farm power plant at the natural energy laboratory of Hawaii authority or another suitable site in the state.

The legislature hereby finds and determines that the activity and facilities of Sopogy, Inc., constitute a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2012, to issue 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 of 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. 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 by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2012.

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved June 29, 2007.)

## ACT 230

S.B. NO. 880

A Bill for an Act Relating to the Museum of Hawaiian Music and Dance.

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

SECTION 1. The legislature finds that the economic viability of Hawaii's tourism industry is heavily dependent upon Hawaiian culture. The culture of the indigenous people is unique and of critical importance in differentiating Hawaii

from other visitor destinations. Tourism promotions, particularly through media such as music and dance, have relied upon Hawaiian culture as the number one marketing tool and as the foundation for perpetuating the spirit of aloha that is vital to the economic success of the industry. The National Academy of Recording Arts and Sciences has recently added the new category of best Hawaiian Music Album to the prestigious Grammy Awards, thereby creating new audiences for Hawaiian music around the world.

The legislature further finds that the history of Hawaiian music and dance demonstrates a proud statement of cultural identity. A compilation of collective works and related memorabilia of exceptional individuals who are highly regarded in their respective fields of endeavor will act to preserve and perpetuate the Hawaiian culture, as well as to promote appreciation for these art forms for present and future generations.

The purpose of this Act is to establish a museum of Hawaiian music and dance committee to determine the appropriate type of institution that should be established, its location, and possible financing mechanisms, and to complete an initial business plan for the museum of Hawaiian music and dance.

SECTION 2. (a) There is established a museum of Hawaiian music and dance committee that shall consist of thirteen members and shall include:

- (1) The executive director of the Hawaii tourism authority, or the director's designated representative;
- (2) A representative from each of the following:
  - (A) The state foundation on culture and the arts;
  - (B) The office of Hawaiian affairs;
  - (C) Kamehameha Schools;
  - (D) Bishop Museum; and
  - (E) The Hawaiian Music Hall of Fame and Museum;
- (3) Three members appointed by the president of the senate; provided that the three members appointed by the president of the senate shall include at least two practitioners or former practitioners of the arts of Hawaiian music or dance, and at least one member of the Hawaiian Academy of Recording Artists or a kumu hula; and
- (4) Three members appointed by the speaker of the house of representatives; provided that the three members appointed by the speaker of the house of representatives shall include at least two practitioners or former practitioners of the arts of Hawaiian music or dance, and at least one member of the Hawaiian Academy of Recording Artists or a kumu hula.

(b) The committee shall be chaired by the executive director of the state foundation on culture and the arts, or the executive director's designated representative; provided that costs of the administrative support for the committee shall be shared equally by the Hawaii tourism authority, the state foundation on culture and the arts, the office of Hawaiian affairs, and shall be partially funded through a legislative appropriation.

(c) The committee shall investigate and determine:

- (1) The type of institution that would be appropriate for a museum of Hawaiian music and dance;
- (2) The best location or locations for this museum or museums;
- (3) A plan to incorporate the existing Hawaiian Music Hall of Fame and Museum into a museum of Hawaiian music and dance;
- (4) The creation of a Hawaiian dance hall of fame to be incorporated into a museum of Hawaiian music and dance; and
- (5) Possible financing mechanisms for these facilities.

## ACT 231

The committee shall also complete an initial business plan for the museum of Hawaiian music and dance.

(d) The committee shall cease to exist on June 30, 2008.

SECTION 3. (a) The committee shall submit a report of its findings and recommendations to the legislature no later than twenty days prior to the convening of the regular session of 2008.

(b) The committee shall submit a final report to the legislature prior to June 30, 2008, that contains:

- (1) A detailed account of how all funds provided for the committee were expended; and
- (2) Plans for the future direction of the museum of Hawaiian music and dance.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$80,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 to assist the committee established in section 2 in its work.

The sums appropriated shall be expended by the Hawaii tourism authority for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved June 29, 2007.)

## ACT 231

H.B. NO. 667

A Bill for an Act Relating to Kukui Gardens Rental Housing Complex.

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

SECTION 1. The legislature finds that the Kukui Gardens rental housing complex has served the community for several decades and has provided affordable housing at reasonable rates for many local residents. The master lease that controls the complex, however, is due to expire in a few years, placing the tenants of the complex's eight hundred fifty-seven units in jeopardy. Considering the tight rental market in Honolulu and the growing homeless problem, it is incumbent upon the legislature to ensure that Kukui Gardens remains affordable for many years to come.

The purpose of this Act is to preserve affordable housing by:

- (1) Increasing the Hawaii housing finance and development corporation's revenue bond authority from \$300,000,000 to \$400,000,000 in anticipation of revenue bonds being used as part of a financing package for Kukui Gardens; and
- (2) Authorizing the issuance of general obligation bonds for the purchase of a portion of real property at Kukui Gardens.

SECTION 2. Act 291, Session Laws of Hawaii 1980, as amended by Act 304, Session Laws of Hawaii 1996, as amended by Act 185, Session Laws of Hawaii 2004, is amended by amending section 11 to read as follows:

“SECTION 11. **Issuance of revenue bond; amount authorized.** Revenue bonds may be issued by the ~~[housing and community development corporation of]~~ Hawaii housing finance and development corporation pursuant to part III, chapter 39

and subpart [B] A of part III of chapter [201G,] 201H, Hawaii Revised Statutes, in an aggregate principal amount not to exceed [~~\$300,000,000,~~] \$400,000,000, at such times and in such amounts as the [~~housing and community development corporation~~ of] Hawaii housing finance and development corporation deems advisable for the purpose of undertaking and maintaining any of the housing loan programs under subpart [B] A of part III of chapter [201G,] 201H, Hawaii Revised Statutes, relating to the funding or purchasing of eligible project loans.”

SECTION 3. The director of finance is authorized to issue general obligation bonds in the sum of \$25,000,000 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 2007-2008 for the acquisition and financing of a portion of the land and improvements of the Kukui Gardens property, tax map key (1) 1-7-26:07; provided that the Hawaii housing finance and development corporation may enter into a long-term, below market, ground lease of the land, and deed the improvements to a private nonprofit housing organization for the purposes of operating, managing, and maintaining the existing rental units and to potentially develop additional affordable rentals on the site.

The sum appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved June 29, 2007.)

## ACT 232

H.B. NO. 272

A Bill for an Act Relating to Captive Insurance Companies.

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

SECTION 1. Section 431:19-101, Hawaii Revised Statutes, is amended by amending the definitions of “affiliated entity”, “association”, “member organization”, and “parent” to read as follows:

““Affiliated entity” means any company, person, or other [legal] entity in the same corporate system as a parent or a member organization by virtue of common ownership, control, operation, or management, or, in the case of a pure captive insurance company, [~~that maintains a working relationship with, and~~] whose [business] risks insured by the pure captive insurance company are [~~similar or related to the business risks of, the parent insured by the pure captive insurance company.~~] directly or indirectly controlled by the parent or an affiliate of the parent of a pure captive insurance company.

“Association” means any legal association of individuals, corporations, limited liability companies, partnerships, [~~or~~] associations, or other entities, except labor organizations, the member organizations of which [~~collectively:~~] or which does itself, whether or not in conjunction with some or all of the member organizations:

- (1) Own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; [~~or~~]
- (2) Have complete voting control over an association captive insurance company incorporated as a mutual insurer[~~];~~ or

- (3) Constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer.

“Member organization” means any individual, corporation, limited liability company, partnership, [or] association, or other entity that belongs to an association.

“Parent” means a [~~company,~~] corporation, limited liability company, partnership, [person, or] other [legal] entity, or individual, that directly or indirectly owns, controls, or holds with power to vote more than fifty per cent of the outstanding voting [~~securities]~~ interests of a pure captive insurance company[-] organized as a stock corporation, nonprofit corporation, or limited liability company.”

SECTION 2. Section 431:19-101.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be established within the office of the commissioner, a captive insurance administrator, who shall be solely responsible for assisting the commissioner in the monitoring, regulation, and development of captive insurance companies under this article. The commissioner, with the approval of the director of commerce and consumer affairs, shall appoint the administrator who shall be designated as a deputy commissioner and shall be exempt from chapter 76[-] notwithstanding section 431:2-105(b). The administrator shall serve at the pleasure of the director of commerce and consumer affairs and shall report directly to the commissioner.”

SECTION 3. Section 431:19-102, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a), (b), and (c) to read:

“(a) Any captive insurance company, when permitted by its articles of association [~~or~~], articles of incorporation, articles of organization, or other organizational document, may apply to the commissioner for a certificate of authority to do any and all insurance set forth in subsection (h); provided that:

- (1) No pure captive insurance company may insure any risks other than those of its parent and affiliated entities;
- (2) No association captive insurance company may insure any risks other than those of the member organizations of its association and their affiliated entities;
- (3) No captive insurance company may provide personal motor vehicle or homeowner’s insurance coverage or any component thereof, other than as employee benefits for the employees of a parent, association, or its members, and their respective affiliated entities; or as reinsurance as may be allowed under this article; and
- (4) No captive insurance company may accept or cede insurance except as provided in section 431:19-111.

(b) No captive insurance company shall do any insurance business in this State unless:

- (1) It first obtains from the commissioner a certificate of authority authorizing it to do insurance business in this State;
- (2) Its board of directors, subscribers’ advisory committee, or other governing body holds at least one meeting each year in this State;
- (3) It maintains its principal place of business and registered office in this State, except that a branch captive insurance company need only maintain the principal place of a business unit in this State; and
- (4) It designates a registered resident agent in accordance with chapter 414 [~~or~~], 414D, or 428, as applicable, to accept service of process and to otherwise act on its behalf in this State. Whenever the registered resident

agent cannot, with reasonable diligence, be found at the registered office of the captive insurance company, the commissioner shall be an agent of the captive insurance company upon whom any process, notice, or demand may be served in accordance with section 431:2-206.

(c) Before receiving a certificate of authority, a captive insurance company shall file with the commissioner [a]:

- (1) A certified copy of its organizational documents, including but not limited to its articles of incorporation [or], articles of association [and], bylaws, [a] subscribers' agreement, articles of organization, and operating agreement, as applicable;
- (2) A statement under oath of [any]:
  - (A) Any two of its principal officers[,-or its];
  - (B) Its attorney-in-fact in the case of a captive insurance company formed as a reciprocal insurer[;]; or
  - (C) The duly authorized representative of its governing body, showing its financial condition[,-and any]; and
- (3) Any other statements or documents required by the commissioner."

2. By amending subsection (f) to read:

~~“(f) The commissioner may [establish a list of advisers to assist with the review of captive applications. The commissioner may appoint one adviser from the list] use independent advisers and consultants to assist in the review and analysis of a specific application[-] or business plan amendment. The [adviser-s] independent advisory and consulting fee, to be paid by the captive applicant, shall be a reasonable fee authorized by the commissioner pursuant to section 431:19-114.”~~

SECTION 4. 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 that the commissioner may adopt by rule;
- (2) 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] company~~ 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;] the factors set forth in section 431:19-106(b);~~
- (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 or comparable documentation 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~~:
  - (i) The certificate or documentation shall be dated not earlier than thirty days prior to the filing of the articles of redomestication; and ~~provided further that if~~
  - (ii) If the certificate of good standing or documentation is in a foreign language, a translation under oath of the translator shall accompany the certificate~~;~~ or documentation;
- (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;]~~ company;
  - (B) Date and location of incorporation ~~[and state or country of incorporation;]~~ or organization;
  - (C) Street address of the principal office in this State;
  - (D) Names and titles of the ~~[officers]~~:
    - (i) Officers and directors of the ~~[corporation;]~~ company; or
    - (ii) Members of the governing body;
  - (E) A statement that the ~~[corporation]~~ company 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]~~ company 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]~~ company is incorporated or organized 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 5. Section 431:19-102.4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(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;]~~ company;
- (2) Dates that notice of the ~~[corporation's]~~ company'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;]~~ pursuant to the publication requirements of section 1-28.5;
- (3) Date of the transfer of its domicile; and
- (4) State or country to which its domicile will be transferred.”

SECTION 6. Section 431:19-104, Hawaii Revised Statutes, is amended to read as follows:

**“§431:19-104 Minimum capital[; letter of credit, security.] and surplus.**

~~[(a) Subject to subsection (e), no captive insurance company incorporated as a stock insurer shall be issued a certificate of authority unless it shall possess and thereafter maintain unimpaired paid-in capital of an amount established and deemed appropriate by the commissioner.~~

~~(b) The capital may be in the form of cash, in the form of an irrevocable letter of credit issued by a bank chartered by this State or a member bank of the Federal Reserve System, or other security approved by the commissioner.~~

~~(c) The minimum capital or surplus requirements for captive insurance companies are as follows:~~

- ~~(1) Class 1: \$100,000;~~
- ~~(2) Class 2: \$250,000;~~
- ~~(3) Class 3: \$500,000 for risk retention captive insurance companies, and \$750,000 for association captive insurance companies;~~
- ~~(4) Class 4: \$1,000,000; and~~
- ~~(5) Class 5: An amount as determined by the commissioner on a case by case basis, after giving due regard to the company's business plan, including the nature of the risks insured.~~

~~The foregoing requirements do not limit the commissioner's discretionary authority to require a captive insurance company to possess and maintain a greater amount of capital or surplus in order to preserve the solvency of the company, nor do the requirements limit or diminish any other applicable provision of law that may require a captive insurance company to maintain a particular level of capital, surplus, assets, or investments.] (a) Each captive insurance company licensed pursuant to this article shall possess and thereafter maintain unimpaired capital and surplus in the amount established by the commissioner; provided that:~~

- ~~(1) The commissioner shall take into account the nature and volume of business transacted by each captive insurance company, and any other factors deemed appropriate by the commissioner;~~
- ~~(2) Class 3 captive insurance companies shall be subject to other applicable provisions of this chapter that may require capital and surplus in excess of those established by the commissioner;~~
- ~~(3) Minimum capital and surplus established by the commissioner shall be no less than the following amounts:~~
  - ~~(A) Class 1: \$100,000;~~
  - ~~(B) Class 2: \$250,000;~~
  - ~~(C) Class 3: \$500,000;~~
  - ~~(D) Class 4: \$1,000,000; and~~
  - ~~(E) Class 5: An amount as determined by the commissioner on a case by case basis.~~

~~(b) Minimum required capital and surplus established by the commissioner pursuant to subsection (a) shall be in any one or combination of the following forms: cash, irrevocable letter of credit issued by a bank chartered by this State or a member bank of the Federal Reserve System, public obligations as defined in section 431:6-301, or other form approved by the commissioner; provided that minimum required capital and surplus in excess of the amounts listed in subsection (a)(3) shall be allowed to be invested in accordance with a strategic investment policy adopted and monitored by the captive insurance company's governing body, and approved by the commissioner.~~

~~[(d)] (c) In the case of a branch captive insurance company, and in lieu of minimum capital [or] and surplus under this section [or section 431:19-105], the~~

commissioner shall determine the amount and form of security to be maintained by the branch captive insurance company in this State after taking into consideration:

- (1) The amount and nature of risk written through and retained by the branch captive insurance company in this State;
- (2) The financial condition of the outside captive insurance company whose branch office is located in this State;
- (3) Trusts or other security posted for ceding insurers; and
- (4) Any other factors the commissioner deems appropriate.

The security required by the commissioner may be in the form of cash [or investments], an irrevocable letter of credit issued by a bank chartered in this State or a member bank of the Federal Reserve System, a trust, public obligations as defined in section 431:6-301, or any other forms of security deemed appropriate by the commissioner.”

SECTION 7. Section 431:19-106, Hawaii Revised Statutes, is amended to read as follows:

**“§431:19-106 Formation of captive insurance companies in this State.**

(a) ~~[A pure captive insurance company shall be incorporated as a stock insurer with its capital divided into shares and held by the stockholders.~~

~~(b) A captive insurance company[, which is other than a pure captive insurance company, may] shall be:~~

(1) Incorporated pursuant to chapter 414 as a stock insurer with its capital divided into shares and held by the stockholders;

(2) Incorporated pursuant to chapter 414D as a nonprofit insurer;

~~[(2)] (3) Incorporated pursuant to chapter 414 as a mutual insurer without capital stock, the governing body of which is elected by the member organization of its association; [or~~

~~(3)] (4) Organized in the State as a reciprocal insurer[, for other than credit life and credit disability insurance and group term life insurance, without capital stock, whose affairs shall be coordinated through an attorney-in-fact as provided in the power of attorney or other agreement given to the attorney-in-fact by the subscribers.] in accordance with sections 431:3-107, 431:3-108, 431:4-404, 431:4-405 (provided that the principal office of the attorney-in-fact for the domestic reciprocal insurer shall not be required to be maintained in this State), 431:4-406 (excluding 431:4-406(b)(3)), 431:4-407, and 431:4-415(a); or~~

(5) Organized pursuant to chapter 428 as a member-managed or manager-managed limited liability company.

~~[(c) A captive insurance company other than one that is formed as a reciprocal insurer shall have no fewer than three incorporators of whom no fewer than two shall be residents of this State.~~

~~(d) (b) Before the [articles of incorporation] required organizational documents are transmitted to the department of commerce and consumer affairs, the incorporators or organizers shall petition the commissioner to issue a certificate setting forth the commissioner’s finding that the establishment and maintenance of the proposed [corporation] company will promote the general good of the State. In arriving at such a finding, the commissioner shall consider:~~

(1) The character, reputation, financial standing, and ~~[purposes] objectives~~ of the ~~[incorporators;] organizers;~~

(2) The character, reputation, financial responsibility, insurance experience, and business qualifications of the captive insurance company’s officers and directors~~;~~, or members of its governing body, and its service providers; and

(3) Other aspects as the commissioner deems advisable.

~~[(e)] (c) The [articles of incorporation, certificate, and the organization fees] required organizational documents and fees shall be transmitted to the department of commerce and consumer affairs[, which shall record both the articles of incorporation and the certificate.] for filing and recordation, as may be necessary.~~

~~[(f)] (d) The capital stock of a captive insurance company incorporated as a stock insurer shall be issued at not less than par value.~~

~~[(g)] At least one of the members of the board of directors of a captive insurance company incorporated in this State shall be a resident of this State.~~

~~(h) Captive insurance companies formed under this article, except for pure nonprofit captive insurance companies, shall have the privileges and be subject to the general corporation law as well as this article. In the event of conflict between the general corporation law and this article, the latter shall control.~~

~~(i) Pure nonprofit captive insurance companies formed under this article shall have the privileges and be subject to the nonprofit corporation law as well as this article. In the event of conflict between the nonprofit corporation law and this article, the latter shall control.]~~

(e) Captive insurance companies formed under this article shall have the privileges and be subject to the general corporation law, nonprofit corporation law, or limited liability law of this State as may be applicable, as well as this article. In the event of conflict between any of the foregoing applicable laws of this State and this article, this article shall control.

SECTION 8. Section 431:19-106.5, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) A plan of conversion or merger shall be submitted to and be approved by the commissioner in advance of the proposed conversion or merger. The commissioner shall not approve the plan unless:

- (1) The commissioner finds that it is fair, equitable, and consistent with law;
- (2) The plan has been approved:
  - (A) In the case of a stock corporation, by at least two-thirds of the shares entitled to vote at a duly called regular or special meeting of the shareholders at which a quorum is present, or by unanimous written consent of the shareholders; ~~[or]~~
  - (B) In the case of a mutual insurer, by at least two-thirds of the voting interest of the members of the mutual insurer at a duly called regular or special meeting of the membership at which a quorum is present, or by unanimous written consent of the members of the mutual insurer; ~~[or]~~
  - (C) In the case of a reciprocal insurer, by at least two-thirds of the voting interest of the subscribers of the reciprocal insurer at a duly called meeting of the subscribers of the reciprocal insurer, or by unanimous written consent of the subscribers;
  - (D) In the case of a nonprofit corporation, by at least two-thirds of the voting interest of the members at a duly called meeting of the members of the corporation, or by unanimous written consent of the members; or
  - (E) In the case of a limited liability company, by at least two-thirds of the voting interest of the members at a duly called meeting of the members of the limited liability company, or by unanimous written consent of the members;
- (3) The plan provides for:

- (A) The conversion of existing stockholder, member, or subscriber interests into equal or proportionate interests in the new converted or merged insurer, or such other method and basis for the conversion of the stockholder, member, or subscriber interests that is fair and equitable;
  - (B) The purchase or other disposition of the shares of any nonconsenting shareholder of a stock insurer ~~[or the]~~, policyholder interest of any nonconsenting member of a mutual insurer, membership interest of a limited liability company, or ~~[the]~~ subscriber surplus account interest, if any, of a subscriber of a reciprocal insurer, in accordance with either an agreement with any nonconsenting stockholder, member, or subscriber or with the existing articles or bylaws of the insurer relating to the buyback buyout, or the termination of the stockholder, member, or subscriber interests, if any, or if no such provisions exist, then in accordance with the laws of this State relating to the rights of dissenting shareholders; and
  - (C) The novation, assignment, transfer, run-off, or other disposition of in force policies insuring any nonconsenting shareholder, member, or subscriber;
- (4) The conversion or merger will leave the resulting converted insurer or surviving insurer of the merger with capital or surplus funds reasonably adequate to preserve the security of its policyholders and an ability to continue to transact business in the classes of insurance in which it is then authorized to transact; and
  - (5) The commissioner finds that the conversion or merger will promote the general good of the State.

(c) After approval of the plan of conversion or merger by the commissioner, the converting or merging insurer shall file with the director of commerce and consumer affairs, appropriate articles of amendment, articles of conversion, or articles of merger, as the case may be; provided that in the case of the conversion of a reciprocal insurer or limited liability company insurer to a stock or mutual insurer, the existing reciprocal or limited liability company insurer shall file articles of incorporation ~~[in order]~~ to commence the corporate existence of the company in the form of a stock or mutual insurer. Documents filed with the director of commerce and consumer affairs pursuant to this subsection shall comply with all applicable requirements for such documents as may be contained in this article and chapter 414 ~~[or]~~, 414D~~[-]~~, or 428, as to the extent that these laws are applicable to the conversion or merger.”

SECTION 9. Section 431:19-110, Hawaii Revised Statutes, is amended to read as follows:

~~“§431:19-110 [Legal investments. Each captive insurance company shall be subject to the restrictions on allowable investments provided under sections 431:6-101 to 431:6-501; provided that the commissioner may approve other investments and investment provisions as the commissioner deems appropriate for each captive insurance company licensed under this article.] Investments. (a) Except for class 3 risk retention captive insurance companies, captive insurance companies licensed under this article shall be allowed to maintain investments in accordance with a strategic investment policy adopted and monitored by the captive insurance company’s governing body, and approved by the commissioner; provided that in addition to the minimum capital and surplus requirements prescribed in section 431:19-104(b), and the requirements prescribed in subsection (b), each captive~~

insurance company shall maintain investments in one or more of the following forms, which aggregate not less than one hundred per cent of reserves as required by this code or the commissioner:

- (1) Cash;
- (2) Irrevocable letter of credit issued by a bank chartered by this State or a member bank of the Federal Reserve System;
- (3) Investments in accordance with a strategic investment policy adopted and monitored by the captive insurance company's governing body, and approved by the commissioner;
- (4) Premiums in the course of collection; or
- (5) Other forms approved by the commissioner.

(b) Each captive insurance company that does not maintain a strategic investment policy as described in subsection (a) and class 3 risk retention captive insurance companies shall be subject to the restrictions on allowable investments provided under sections 431:6-101 to 431:6-501; provided that the commissioner may approve other assets, investments, and investment provisions as the commissioner deems appropriate.

(c) The commissioner may require a captive insurance company to file a complete disclosure of the identity, background, and experience of the key individuals or staff that are involved with its investment activities and administration, if deemed necessary.

(d) Each captive insurance company shall maintain in its principal office in this State a written record documenting its investment transactions, as well as documents evidencing the authorization or approval of the investments by the captive insurance company's governing body or its designated representative.

(e) The commissioner may prohibit or limit any investments or investible assets if the captive insurance company is not in compliance with this article or applicable rules."

SECTION 10. Section 431:19-105, Hawaii Revised Statutes, is repealed.

SECTION 11. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 12. This Act shall take effect on July 1, 2007.

(Approved June 29, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 233**

S.B. NO. 1410

A Bill for an Act Relating to Insurance.

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

SECTION 1. The purpose of this Act is to conform current statutes to the recommendations of the National Association of Insurance Commissioners to bring Hawaii's insurance laws into conformity with the federal law and national standards as follows:

- (1) Part I authorizes the insurance commissioner to adopt rules to implement model standards that are being developed by the National Association of Insurance Commissioners to implement the directives of the

federal Military Personnel Financial Services Protection Act (Public Law No. 109-290), which was signed into law in 2006 to protect members of the United States armed forces from unscrupulous practices regarding sales of insurance, financial, and investment products. The Military Personnel Financial Services Protection Act requires the states to implement its directives by September 29, 2007;

- (2) Part II focuses on long-term care by promoting the availability of long-term care insurance, protecting applicants for long-term care insurance from unfair or deceptive sales or enrollment practices, updating standards for long-term care insurance, and facilitating flexibility and innovation in the development of long-term care insurance coverage; and
- (3) Part III enables the sharing of information by the insurance commissioner with the insurance regulatory agencies of foreign countries, including the sharing of confidential information, to facilitate the regulation of the insurance industry.

## PART I

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding to article 2 a new section to be appropriately designated and to read as follows:

**“§431:2-A Sales to members of the armed forces.** Pursuant to the Military Personnel Financial Services Protection Act, Pub. L. No. 109-290, the commissioner shall have the authority to adopt rules to protect service members of the United States armed forces from dishonest and predatory life insurance sales practices by declaring certain life insurance practices, identified in the rules, to be false, misleading, deceptive, or unfair.”

## PART II

SECTION 3. Chapter 431, Hawaii Revised Statutes, is amended by adding to part I of article 10H three new sections to be appropriately designated and to read as follows:

**“§431:10H-AAA Denial of claims; compliance requirements.** (a) If a claim under a long-term care insurance contract is denied, the issuer, within sixty days of the date of a written request by the policyholder or certificate holder, or a representative thereof shall:

- (1) Provide a written explanation of the reasons for the denial; and
- (2) Make available all information directly related to the denial.

(b) Any policy or rider advertised, marketed, or offered as long-term care or nursing home insurance shall comply with this article.

**§431:10H-BBB Delivery of the contract or certificate of insurance.** If an application for a long-term care insurance contract or certificate is approved, the issuer shall deliver the contract or certificate of insurance to the applicant no later than thirty days after the date of approval.

**§431:10H-CCC Producer training requirements.** (a) Effective on the date that is one year following the enactment by the State of legislation establishing the long-term care partnership program as provided in Title VI, Section 6021 of the Federal Deficit Reduction Act of 2005, an individual may not sell, solicit, or negotiate long-term care insurance unless the individual is licensed as an insurance producer for accident, health, or life insurance and has completed a one-time training

course and ongoing training every twenty-four months thereafter. This training shall meet the requirements set forth in subsections (c) and (d). The producer training requirements provided in this section shall be required of every producer selling, soliciting, or negotiating long-term care insurance.

(b) The training requirements of subsections (c) and (d) may be approved as continuing education courses under section 431:9A-153.

(c) The one-time training required under this section shall be no less than eight hours and the ongoing training required by this section shall be no less than four hours for every twenty-four month period thereafter.

(d) The training required under this section shall consist of topics related to long-term care insurance, long-term care services, and, if applicable, qualified state long-term care insurance partnership programs, including but not limited to:

- (1) State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including medicaid;
- (2) Available long-term care services and providers;
- (3) Changes or improvements in long-term care services or providers;
- (4) Alternatives to the purchase of long-term care insurance;
- (5) The effect of inflation on benefits and the importance of inflation protection; and
- (6) Consumer suitability standards and guidelines.

(e) The training required by this section shall not include training that is insurer or company product specific or that includes any sales or marketing information, materials, or training other than those required by state or federal law.

(f) Insurers subject to article 10H, chapter 431, shall obtain verification that a producer received training required by this section before a producer is permitted to sell, solicit, or negotiate the insurer's long-term care insurance products, maintain records subject to the State's record retention requirements, and make that verification available to the commissioner upon request.

(g) Insurer's subject to article 10H, chapter 431, shall maintain records with respect to the training of its producers concerning the distribution of its partnership policies that will allow the commissioner to provide assurance to the State's medicaid agency that producers have received the training required by this section and that producers have demonstrated an understanding of the partnership policies and their relationship to public and private coverage of long-term care, including medicaid, in the State. These records shall be maintained in accordance with the State's record retention requirements and shall be made available to the commissioner upon request.

(h) The satisfaction of training requirements in any state shall be deemed to satisfy the training requirements provided in this section."

SECTION 4. Chapter 431, Hawaii Revised Statutes, is amended by adding to part II of article 10H seven new sections to be appropriately designated and to read as follows:

**"§431:10H-DDD Electronic enrollment for group policies.** (a) In the case of a group defined in paragraph (1) of the definition of "group long-term care insurance" in section 431:10H-104, any requirement that a signature of an insured be obtained by an agent or insurer shall be deemed satisfied if:

- (1) The consent is obtained by telephonic or electronic enrollment by the group policyholder or insurer. A verification of enrollment information shall be provided to the enrollee;

- (2) The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the accuracy, retention, and prompt retrieval of records; and
- (3) The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure that the confidentiality of individually identifiable information and privileged information is maintained.

(b) The insurer shall make available, upon request of the commissioner, records that will demonstrate the insurer’s ability to confirm enrollment and coverage amounts.

**§431:10H-EEE Required disclosure of rating practices to consumers. (a)**

This section shall apply as follows:

- (1) Except as provided in paragraph (2), this section applies to any long-term care policy or certificate issued in this State on or after January 1, 2008; and
- (2) For certificates issued on or after July 1, 2007, under a group long-term care insurance policy as defined in paragraph (1) of the definition of “group long-term care insurance” in section 431:10H-104, which policy was in force on July 1, 2007, this section shall apply on the policy anniversary following July 1, 2007.

(b) Other than for policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in this subsection to the applicant at the time of application or enrollment; unless the method of application does not allow for delivery at that time. In such a case, an insurer shall provide all of the information listed in this subsection to the applicant no later than at the time of delivery of the policy or certificate as follows:

- (1) A statement that the policy may be subject to rate increases in the future;
- (2) An explanation of potential future premium rate revisions and the policyholder’s or certificate holder’s option in the event of a premium rate revision;
- (3) The premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase;
- (4) A general explanation for applying premium rate or rate schedule adjustments that shall include:
  - (A) A description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date or next billing date); and
  - (B) The right to a revised premium rate or rate schedule as provided in paragraph (3) if the premium rate or rate schedule is changed;
- (5) With respect to disclosure of premium rate increases:
  - (A) Information regarding each premium rate increase on this policy form or similar policy forms over the past ten years for this State or any other state that, at a minimum, identifies:
    - (i) The policy forms for which premium rates have been increased;
    - (ii) The calendar years when the policy form was available for purchase; and
    - (iii) The amount or per cent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics;

- (B) The insurer, in a fair manner, may provide additional explanatory information related to the rate increases;
- (C) An insurer may exclude from the disclosure premium rate increases that only apply to blocks of business acquired from other nonaffiliated insurers or the long-term care policies acquired from other nonaffiliated insurers when those increases occurred prior to the acquisition;
- (D) If an acquiring insurer files for a rate increase on a long-term care policy form acquired from nonaffiliated insurers or a block of policy forms acquired from nonaffiliated insurers on or before the later of July 1, 2007, or the end of a twenty-four-month period following the acquisition of the block or policies, the acquiring insurer may exclude that rate increase from the disclosure. However, the nonaffiliated selling company shall include the disclosure of that rate increase in accordance with subparagraph (A); and
- (E) If the acquiring insurer in subparagraph (D) files for a subsequent rate increase, even within the twenty-four-month period, on the same policy form acquired from nonaffiliated insurers or block of policy forms acquired from nonaffiliated insurers referenced in subparagraph (D), the acquiring insurer shall make all disclosures required by this paragraph, including disclosure of the earlier rate increase referenced in subparagraph (D).

(c) An applicant shall sign an acknowledgment at the time of application, unless the method of application does not allow for signature at that time, that the insurer made the disclosure required under subsection (b)(1) to (5). If due to the method of application the applicant cannot sign an acknowledgment at the time of application, the applicant shall sign no later than at the time of delivery of the policy or certificate.

(d) An insurer shall use the forms in Appendices B and F of the April, 2002, NAIC Model Long-Term Care Insurance Model Regulation to comply with the requirements of subsections (b) and (c).

(e) An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificate holders, if applicable, at least forty-five days prior to the implementation of the premium rate schedule increase by the insurer. The notice shall include the information required by subsection (b) when the rate increase is implemented.

**§431:10H-FFF Initial filing requirements.** (a) This section applies to any long-term care policy issued in this State after December 31, 2007.

(b) An insurer shall provide the information listed in this subsection to the commissioner thirty days prior to making a long-term care insurance form available for sale as follows:

- (1) A copy of the disclosure documents required in section 431:10H-221; and
- (2) An actuarial certification consisting of at least the following:
  - (A) A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;
  - (B) A statement that the policy design and coverage provided have been reviewed and taken into consideration;

- (C) A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration;
- (D) A complete description of the basis for contract reserves that are anticipated to be held under the form, to include:
  - (i) Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held;
  - (ii) A statement that the assumptions used for reserves contain reasonable margins for adverse experience;
  - (iii) A statement that the net valuation premium for renewal years does not increase (except for attained-age rating where permitted); and
  - (iv) A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur; provided that an aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship; provided further that if the gross premiums for certain age groups are inconsistent with this requirement, the commissioner may request a demonstration under subsection (c) based on a standard age distribution; and
- (E) With respect to premium rate schedules:
  - (i) A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits; or
  - (ii) A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences.

(c) The commissioner may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration shall include either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, or relevant and credible data from other studies, or both. If the commissioner asks for additional information under this subsection, the period in subsection (b) does not include the period during which the insurer is preparing the requested information.

**§431:10H-GGG Licensing.** A producer is not authorized to sell, solicit, or negotiate with respect to long-term care insurance except as authorized by article 9A.

**§431:10H-HHH Premium rate schedule increases.** (a) This section shall apply as follows:

- (1) Except as provided in paragraph (2), this section applies to any long-term care policy or certificate issued in this State after December 31, 2007; and
- (2) For certificates issued after June 30, 2007, under a group long-term care insurance policy, as defined in paragraph (1) of the definition of “group long-term care insurance” in section 431:10H-104, which policy was in force on July 1, 2007, this section shall apply on the policy anniversary following July 1, 2007.

(b) An insurer shall provide notice of a pending premium rate schedule increase, including an exceptional increase, to the commissioner at least thirty days prior to the notice to the policyholders and shall include:

- (1) Information required by section 431:10H-221;
  - (2) A certification by a qualified actuary that:
    - (A) If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated; and
    - (B) The premium rate filing is in compliance with this section;
  - (3) An actuarial memorandum justifying the rate schedule change request that includes:
    - (A) Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale; provided that:
      - (i) Annual values for the five years preceding and the three years following the valuation date shall be provided separately;
      - (ii) The projections shall include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase;
      - (iii) The projections shall demonstrate compliance with subsection (c); and
      - (iv) For exceptional increases, the projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase. If the commissioner determines, as provided in paragraph (4) of the definition of "exceptional increase" in section 431:10H-104, that offsets may exist, the insurer shall use appropriate net projected experience;
    - (B) Disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger a contingent benefit upon lapse;
    - (C) Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary;
    - (D) A statement that policy design, underwriting, and claims adjudication practices have been taken into consideration; and
    - (E) If it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer shall file composite rates reflecting projections of new certificates;
  - (4) A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the commissioner; and
  - (5) Sufficient information for the review of the premium rate schedule increase by the commissioner.
- (c) All premium rate schedule increases shall be determined in accordance with the following requirements:
- (1) Exceptional increases shall provide that seventy per cent of the present value of projected additional premiums from the exceptional increase shall be returned to policyholders in benefits;

- (2) Premium rate schedule increases shall be calculated so that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:
  - (A) The accumulated value of the initial earned premium times fifty-eight per cent;
  - (B) Eighty-five per cent of the accumulated value of prior premium rate schedule increases on an earned basis;
  - (C) The present value of future projected initial earned premiums times fifty-eight per cent; and
  - (D) Eighty-five per cent of the present value of future projected premiums not in subparagraph (C) on an earned basis;
- (3) If a policy form has both exceptional and other increases, the values in paragraph (2)(B) and (D) shall also include seventy per cent for exceptional rate increase amounts; and
- (4) All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves, as applicable, as specified in sections 431:5-303 and 431:5-307. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.

(d) For each rate increase that is implemented, the insurer shall file for review by the commissioner updated projections, as provided in subsection (b)(3)(A), annually for the next three years, and include a comparison of actual results to projected values. The commissioner may extend the period to greater than three years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subsection (k), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the commissioner.

(e) If any premium rate in the revised premium rate schedule is greater than two hundred per cent of the comparable rate in the initial premium schedule, lifetime projections, as provided in subsection (b)(3)(A), shall be filed for review by the commissioner every five years following the end of the required period in subsection (d). For group insurance policies that meet the conditions in subsection (k), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the commissioner.

(f) If the commissioner has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (c), the commissioner may require the insurer to implement any of the following:

- (1) Premium rate schedule adjustments; or
- (2) Other measures to reduce the difference between the projected and actual experience.

In determining whether the actual experience adequately matches the projected experience, consideration should be given to subsection (b)(3)(E), if applicable.

(g) If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file:

- (1) A plan, subject to the commissioner's approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect;

otherwise the commissioner may impose the condition in subsection (h); and

- (2) The original anticipated lifetime loss ratio and the premium rate schedule increase that would have been calculated according to subsection (c), had the greater of the original anticipated lifetime loss ratio or fifty-eight per cent been used in the calculations described in subsection (c)(2)(A) and (C).

(h) For a rate increase filing that meets the following criteria, the commissioner shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the twelve months following each increase to determine if significant adverse lapsing has occurred or is anticipated:

- (1) The rate increase is not the first rate increase requested for the specific policy form or forms;
- (2) The rate increase is not an exceptional increase; and
- (3) The majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.

If significant adverse lapsing has occurred, is anticipated in the filing, or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the commissioner may determine that a rate spiral exists. Following the determination that a rate spiral exists, the commissioner may require the insurer to offer, without underwriting, to all in force insureds, subject to the rate increase, the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates; provided that the offer shall be subject to the approval of the commissioner, be based on actuarially sound principles but not on attained age, and provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy.

The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of the maximum rate increase determined based on the combined experience or the maximum rate increase determined based only on the experience of the insureds originally issued the form plus ten per cent.

(i) If the commissioner determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the commissioner, in addition to subsection (h), may prohibit the insurer from either of the following:

- (1) Filing and marketing comparable coverage for a period of up to five years; or
- (2) Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

(j) Subsections (a) to (i) shall not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in section 431:10H-104, if the policy complies with all of the following provisions:

- (1) The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
- (2) The portion of the policy that provides insurance benefits, other than long-term care coverage, meets the nonforfeiture requirements as applicable in any of the following:
  - (A) Section 431:10D-104; and
  - (B) Section 431:10D-107;

- (3) The policy meets the disclosure requirements of sections 431:10H-113 and 431:10H-114;
  - (4) The portion of the policy that provides insurance benefits, other than long-term care coverage, meets the requirements as applicable in the following:
    - (A) Policy illustrations as required by part IV of article 10D; and
    - (B) Disclosure requirements, as applicable, in article 431:10D; and
  - (5) An actuarial memorandum is filed with the commissioner that includes:
    - (A) A description of the basis on which the long-term care rates were determined;
    - (B) A description of the basis for the reserves;
    - (C) A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;
    - (D) A description and a table of each actuarial assumption used. For expenses, an insurer shall include per cent of premium dollars per policy and dollars per unit of benefits, if any;
    - (E) A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
    - (F) The estimated average annual premium per policy and the average issue age;
    - (G) A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when that underwriting occurs; and
    - (H) A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values, and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.
- (k) Subsections (f) and (h) shall not apply to group insurance policies as defined in paragraph (1) of the definition of “group long-term care insurance” in section 431:10H-104 where:
- (1) The policies insure two hundred fifty or more persons and the policyholder has five thousand or more eligible employees of a single employer; or
  - (2) The policyholder, and not the certificate holders, pays a material portion of the premium, which shall not be less than twenty per cent of the total premium for the group in the calendar year prior to the year a rate increase is filed.
- (l) “Exceptional increase” for purposes of this section shall be as defined in section 431:10H-104.

**§431:10H-III Additional standards for benefit triggers for qualified long-term care insurance contracts.** (a) For purposes of this section, the following definitions apply:

“Chronically ill individual” has the meaning prescribed for this term by section 7702B(c)(2)(A) of the Internal Revenue Code of 1986, as amended. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as:

- (1) Being unable to perform (without substantial assistance from another individual) at least two activities of daily living for a period of at least ninety days due to a loss of functional capacity; or
- (2) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

“Chronically ill individual” shall not include an individual otherwise meeting these requirements unless within the preceding twelve-month period a licensed health care practitioner has certified that the individual meets these requirements.

“Licensed health care practitioner” means a physician, as defined in section 1861(r)(1) of the Social Security Act, and any registered professional nurse, licensed social worker, or other individual who meets requirements prescribed by the Secretary of the Treasury.

“Maintenance or personal care services” means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

“Qualified long-term care services” means services that meet the requirements of section 7702B(c)(1) of the Internal Revenue Code of 1986, as amended, as follows: necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation and rehabilitative services, and maintenance or personal care services which are required by a chronically ill individual and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(b) A qualified long-term care insurance contract shall pay only for qualified long-term care services received by a chronically ill individual provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(c) A qualified long-term care insurance contract shall condition the payment of benefits on a determination of the insured’s inability to perform activities of daily living for an expected period of at least ninety days due to a loss of functional capacity or to severe cognitive impairment.

(d) Certifications regarding activities of daily living and cognitive impairment required pursuant to subsection (c) shall be performed by a licensed health care practitioner.

(e) Certifications required pursuant to subsection (d) may be performed by a licensed health care practitioner at the direction of the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least ninety days due to a loss of functional capacity and the insured is claiming payment of benefits, the certification may not be rescinded and additional certifications may not be performed until after the expiration of the ninety-day period.

(f) Qualified long-term care insurance contracts shall include a clear description of the process for appealing and resolving disputes with respect to benefit determinations.

**§431:10H-JJJ Penalties.** In addition to any other penalties provided by the laws of this State, any insurer or producer found to have violated any requirement of this State relating to the regulation of long-term care insurance or the marketing of such insurance shall be subject to a fine of up to three times the amount of any commissions paid for each policy involved in the violation or up to \$10,000, whichever is greater.”

SECTION 5. Section 431:10H-104, Hawaii Revised Statutes, is amended by adding three new definitions to read as follows:

““Exceptional increase” means only those increases filed by an insurer that are extraordinary and for which the commissioner determines the need for the premium rate increase is justified:

- (1) Due to:
  - (A) Changes in laws or rules applicable to long-term care coverage in this State; or
  - (B) Increased and unexpected utilization that affects the majority of insurers of similar products;
- (2) Except as provided in section 431:10H-232, exceptional increases are subject to the same requirements as other premium rate schedule increases;
- (3) The commissioner may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase; and
- (4) The commissioner, in determining that the necessary basis for an exceptional increase exists, shall also determine any potential offsets to higher claims costs.

“Incidental”, as used in section 431:10H-HHH(j), means that the value of the long-term care benefits provided is less than ten per cent of the total value of the benefits provided over the life of the policy. These values shall be measured as of the date of issue.

“Qualified long-term care insurance contract” or “federally tax-qualified long-term care insurance contract” means an individual or group insurance contract that meets the requirements of section 7702B(b) of the Internal Revenue Code of 1986, as amended, as follows:

- (1) The only insurance protection provided under the contract is coverage of qualified long-term care services. A contract shall not fail to satisfy the requirements of this paragraph by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate;
- (2) The contract does not pay or reimburse expenses incurred for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act, as amended, or would be so reimbursable but for the application of a deductible or coinsurance amount. The requirements of this paragraph do not apply to expenses that are reimbursable under Title XVIII of the Social Security Act only as a secondary payor. A contract shall not fail to satisfy the requirements of this paragraph by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate;
- (3) The contract is guaranteed renewable, within the meaning of section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended;
- (4) The contract does not provide for a cash surrender value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed except as provided in paragraph (5);
- (5) All refunds of premiums and all policyholder dividends or similar amounts under the contract are to be applied as a reduction in future premiums or to increase future benefits, except that a refund on the event of death of the insured or a complete surrender or cancellation of the contract cannot exceed the aggregate premiums paid under the contract; and
- (6) The contract meets the consumer protection provisions set forth in section 7702B(g) of the Internal Revenue Code of 1986, as amended.

“Qualified long-term care insurance contract” or “federally tax-qualified long-term care insurance contract” also means the portion of a life insurance contract that

provides long-term care insurance coverage by rider or as part of the contract and that satisfies the requirements of section 7702B(b) and (e) of the Internal Revenue Code of 1986, as amended.”

SECTION 6. Section 431:10H-104, Hawaii Revised Statutes, is amended by amending the definition of “long-term care insurance” to read as follows:

““Long-term care insurance” means any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense incurred, indemnity, prepaid, or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. The term includes group and individual annuities and life insurance policies or riders that provide directly or that supplement long-term care insurance. The term also includes a policy or rider that provides for payment of benefits based upon cognitive impairment or loss of functional capacity. The term shall also include qualified long-term care insurance contracts. Long-term care insurance may be issued by insurers, fraternal benefit societies, nonprofit health, hospital, and medical service corporations, prepaid health plans, health maintenance organizations, or any similar organization to the extent they are otherwise authorized to issue life or health insurance.

Long-term care insurance shall not include any insurance policy [which] that is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

With regard to life insurance, this term does not include life insurance policies [which] that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and [which] that provide the option of a lump-sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

Notwithstanding any other provision contained herein, any product advertised, marketed, or offered as long-term care insurance shall be subject to this article.”

SECTION 7. Section 431:10H-111, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§431:10H-111]]~~ **Right to return; free look provision.** Long-term care insurance applicants shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a group defined in paragraph (1) of the definition of “group long-term care insurance” in section 431:10H-104, the applicant is not satisfied for any reason. This section shall also apply to a denial of an application for a long-term care contract. Any refund shall be made within thirty days of the return or denial.”

SECTION 8. Section 431:10H-112, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) The outline of coverage shall include:
- (1) A description of the principal benefits and coverage provided in the policy;
  - (2) A statement of the principal exclusions, reductions, and limitations contained in the policy;
  - (3) A statement of the terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change premium. Continuation or conversion provisions of group coverage shall be specifically described;
  - (4) A statement that the outline of coverage is a summary only, not a contract of insurance, and that the policy or group master policy contains governing contractual provisions;
  - (5) A description of the terms under which the policy or certificate may be returned and premium refunded; ~~and~~
  - (6) A brief description of the relationship of costs of care and benefits[-]; and
  - (7) A statement that discloses to the policyholder or certificate holder whether the policy is intended to be a federally tax-qualified long-term care insurance contract under section 7702B(b) of the Internal Revenue Code of 1986, as amended.”

SECTION 9. Section 431:10H-114, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy that provides long-term care benefits within the policy[-] or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant’s request, but regardless of the request shall make delivery no later than at the time of policy delivery. In addition to complying with all applicable requirements, the policy summary shall also include:

- (1) An explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;
- (2) An illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits if any, for each covered person;
- (3) Any exclusions, reductions, and limitations on benefits of long-term care;
- (4) A statement that any long-term care inflation protection option required by section 431:10H-220 is not available under this policy;
- (5) If applicable to the policy type, the summary shall also include a disclosure of the effects of exercising other rights under the policy, a disclosure of guarantees related to long-term care costs of insurance charges, and current and projected maximum lifetime benefits; and
- (6) The provisions of the policy summary listed above may be incorporated into a basic illustration required to be delivered or into the life insurance policy summary [~~which~~] that is required to be delivered.”

SECTION 10. Section 431:10H-201, Hawaii Revised Statutes, is amended to read as follows:

“~~[§431:10H-201]~~ **Policy definitions.** (a) No long-term care insurance policy delivered or issued for delivery in this State shall use the terms set forth in this

section, unless the terms are defined in the policy and the definitions satisfy the following requirements:

“Activities of daily living” means at least bathing, continence, dressing, eating, toileting, and transferring.

“Acute condition” means that the individual is medically unstable. This individual requires frequent monitoring by medical professionals such as physicians and registered nurses, in order to maintain the individual’s health status.

“Adult day care” means a program for six or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home.

“Bathing” means washing oneself by sponge bath, or in either a tub or shower, including the task of getting into or out of the tub or shower.

“Cognitive impairment” means a deficiency in a person’s short- or long-term memory, orientation as to person, place, and time, deductive or abstract reasoning, or judgment as it relates to safety awareness.

“Continence” means the ability to maintain control of bowel and bladder function, or when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag).

“Dressing” means putting on and taking off all items of clothing and any necessary braces, fasteners, or artificial limbs.

“Eating” means feeding oneself by getting food into the body from a receptacle (such as a plate, cup, or table) or by a feeding tube or intravenously.

“Hands-on assistance” means physical assistance (minimal, moderate, or maximal) without which the individual would not be able to perform the activity of daily living.

“Home health care services” means medical and nonmedical services, provided to ill, disabled, or infirm persons in their residences. These services may include homemaker services, assistance with activities of daily living, and respite care services.

“Medicare” shall be defined as “The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended<sup>[,2]</sup>”, or Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof, or words of similar import.

“Mental or nervous disorder” means neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder, and shall not be defined beyond these terms.

“Personal care” means the provision of hands-on services to assist an individual with activities of daily living.

“Skilled nursing care”, [~~“intermediate care”~~], “personal care”, “home care”, “specialized care”, “assisted living care”, and other services shall be defined in relation to the level of skill required, the nature of the care, and the setting in which care must be delivered.

“Toileting” means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.

“Transferring” means moving into or out of a bed, chair, or wheelchair.

(b) All providers of services, including but not limited to a “skilled nursing facility”, “extended care facility”, [~~“intermediate care facility”~~], “convalescent nursing home”, “personal care facility”, [and] “assisted living facility”, “home care agency”, and “specialized care providers” shall be defined in relation to the services and facilities required to be available and the licensure, certification,

registration, or degree status of those providing or supervising the services. The definition may require that the provider be appropriately licensed [or], certified[-], or registered; provided that when the definition so requires, it shall also state what requirements a provider shall meet in lieu of licensure, certification, or registration when the state in which the service is to be furnished does not require a provider of these services to be licensed, certified, or registered, or when the state licenses, certifies, or registers the provider of services under another name.”

SECTION 11. Section 431:10H-202, Hawaii Revised Statutes, is amended to read as follows:

**“[[§431:10H-202]] Renewability.** (a) The terms “guaranteed renewable” and “noncancellable” shall not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of section 431:10H-211. A policy issued to an individual shall not contain renewal provisions other than guaranteed renewable or noncancellable.

(b) The term “guaranteed renewable” may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

(c) The term “noncancellable” means the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate.

(d) The term “level premium” may only be used when the insurer does not have the right to change the premium.

(e) In addition to the other requirements of this section, a qualified long-term care insurance contract shall be guaranteed renewable, within the meaning of section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended.”

SECTION 12. Section 431:10H-203, Hawaii Revised Statutes, is amended to read as follows:

**“[[§431:10H-203]] Limitations and exclusions.** (a) A policy may not be delivered or issued for delivery in this State as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition, or accident, except as follows:

- (1) Preexisting conditions or diseases;
- (2) Mental or nervous disorders; however, this shall not permit exclusion or limitation of benefits on the basis of Alzheimer’s disease;
- (3) Alcoholism and drug addiction;
- (4) Illness, treatment, or medical condition arising out of:
  - (A) War or act of war, whether declared or undeclared;
  - (B) Participation in a felony, riot, or insurrection;
  - (C) Service in the armed forces or units auxiliary thereto;
  - (D) Suicide (sane or insane), attempted suicide, or intentionally self-inflicted injury; or
  - (E) Aviation (this exclusion applies only to non-fare-paying passengers); [or]
- (5) Treatment provided in a government facility (unless required by law), services for which benefits are available under medicare or other governmental program (except medicaid), any state or federal workers’ compensation, employer’s liability, or occupational disease law, or any

motor vehicle insurance law, services provided by a member of the covered person's immediate family, and services for which no charge is normally made in the absence of insurance[-];

- (6) Expenses for services or items available or paid under another long-term care insurance or health insurance policy; or
- (7) In the case of a qualified long-term care insurance contract, expenses for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount.

(b) This section is not intended to prohibit exclusions and limitations by type of provider [or territorial limitations]. However, no long-term care issuer may deny a claim because services are provided in a state other than the state of policy issue under the following conditions:

- (1) When the state other than the state of policy issue does not have the provider licensing, certification, or registration required in the policy, but where the provider satisfies the policy requirements outlined for providers in lieu of licensure, certification, registration; or
- (2) When the state other than the state of policy issue licenses, certifies, or registers the provider under another name.

For purposes of this subsection, "state of policy issue" means the state in which the individual policy or certificate was originally issued.

- (c) This section is not intended to prohibit territorial limitations."

SECTION 13. Section 431:10H-211, Hawaii Revised Statutes, is amended to read as follows:

**"[§431:10H-211] Disclosure; renewability.** (a) Individual long-term care insurance policies shall contain a renewability provision. The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. This provision shall not apply to policies that do not contain a nonrenewability provision, and under which the right to nonrenew is reserved solely to the policyholder.

(b) A long-term care insurance policy or certificate, other than one where the insurer does not have the right to change the premium, shall include a statement that premium rates may change."

SECTION 14. Section 431:10H-216, Hawaii Revised Statutes, is amended to read as follows:

**"[§431:10H-216] Disclosure of tax consequences.** With regard to life insurance policies that provide for an accelerated benefit for long-term care, a disclosure is required at the time of application for the policy and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy and any other related documents. This section shall not apply to qualified long-term care insurance contracts."

SECTION 15. Section 431:10H-218, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and

countrywide, except those that the insured voluntarily effectuated. Every insurer shall annually furnish this information to the insurance commissioner in the format prescribed by the National Association of Insurance Commissioners in Appendix A to the [July 1998] April, 2002, NAIC Long-Term Care Insurance Model Regulation.”

SECTION 16. Section 431:10H-221, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its producer, shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and health or sickness or long-term care coverage. One copy of the notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the same manner as shown in [Section 12(C) of the July 1998] section 14C of the April, 2002, NAIC Long-Term Care Insurance Model Regulation.

(d) Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and health or sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be provided in the same manner as shown in [Section 12(D) of the July 1998] section 14D of the April, 2002, NAIC Long-Term Care Insurance Model Regulation.”

SECTION 17. Section 431:10H-222, Hawaii Revised Statutes, is amended to read as follows:

“**§431:10H-222 Reporting requirements.** (a) Every insurer shall maintain records for each producer of the producer’s amount of replacement sales as a per cent of the producer’s total annual sales and the amount of lapses of long-term care insurance policies sold by the producer as a per cent of the producer’s total annual sales.

(b) Every insurer shall report annually by June 30 the ten per cent of its producers with the greatest percentages of lapses and replacements as measured in subsection (a). The form shall be in the format contained in Appendix G to the April, 2002, NAIC Long-Term Care Insurance Model Regulation.

(c) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely producer activities regarding the sale of long-term care insurance.

(d) Every insurer shall report annually by June 30 the number of lapsed policies as a per cent of its total annual sales and as a per cent of its total number of policies in force as of the end of the preceding calendar year. The form shall be in the format contained in Appendix G to the April, 2002, NAIC Long-Term Care Insurance Model Regulation.

(e) Every insurer shall report annually by June 30 the number of replacement policies sold as a per cent of its total annual sales and as a per cent of its total number of policies in force as of the end of the preceding calendar year. The form shall be in the format contained in Appendix G to the April, 2002, NAIC Long-Term Care Insurance Model Regulation.

(f) For [purposes of this section, “policy” means only long-term care insurance and “report” means on a statewide basis.] qualified long-term care insurance contracts, every insurer shall report annually by June 30, the number of claims denied for each class of business, expressed as a percentage of claims denied. The form shall be in the format contained in Appendix E to the April, 2002, NAIC Long-Term Care Insurance Model Regulation.

(g) Reports required under this section shall be filed with the commissioner.

(h) For purposes of this section:

“Claim” means a request for payment of benefits under an in force policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met. Claims shall be subject to the definition of “denied”.

“Denied” means the insurer refuses to pay a claim for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition.

“Policy” means only long-term care insurance.

“Report” means on a statewide basis.”

SECTION 18. Section 431:10H-226, Hawaii Revised Statutes, is amended to read as follows:

**“[§431:10H-226] Loss ratio.** (a) Benefits under long-term care insurance policies shall be deemed reasonable in relation to premiums; provided that the expected loss ratio is at least sixty per cent, calculated in a manner that provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio due consideration shall be given to all relevant factors, including:

- (1) Statistical credibility of incurred claims experience and earned premiums;
- (2) The period for which rates are computed to provide coverage;
- (3) Experienced and projected trends;
- (4) Concentration of experience within early policy duration;
- (5) Expected claim fluctuation;
- (6) Experience refunds, adjustments, or dividends;
- (7) Renewability features;
- (8) All appropriate expense factors;
- (9) Interest;
- (10) Experimental nature of the coverage;
- (11) Policy reserves;
- (12) Mix of business by risk classification, if applicable; and
- (13) Product features such as long elimination periods, high deductibles, and high maximum limits.

(b) For purposes of this section, the commissioner shall consult with a qualified long-term care actuary.

(c) Subsection (a) shall not apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is considered to provide reasonable benefits in relation to premiums paid, if the policy complies with all of the following provisions:

- (1) The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
- (2) The portion of the policy that provides life insurance benefits meets the nonforfeiture requirements for life insurance;
- (3) The policy meets the disclosure requirements of section 431:10H-114 as applicable;
- (4) Any policy illustration that meets the applicable requirements for policy illustration;
- (5) An actuarial memorandum is filed with the insurance division that includes:

- (A) A description of the basis on which the long-term care rates were determined;
- (B) A description of the basis for the reserves;
- (C) A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;
- (D) A description and a table of each actuarial assumption used. For expenses, an insurer shall include per cent of premium dollars per policy and dollars per unit of benefits, if any;
- (E) A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
- (F) The estimated average annual premium per policy and the average issue age;
- (G) A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used, and if used, the statement shall include a description of the type or types of underwriting used such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and
- (H) A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values, and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status.

(d) This section shall apply to all long-term care insurance policies or certificates except those covered under sections 431:10H-FFF and 431:10H-HHH.”

SECTION 19. Section 431:10H-229, Hawaii Revised Statutes, is amended to read as follows:

“**§431:10H-229 Standards for marketing.** (a) Every insurer, health care service plan, or other entity marketing long-term care insurance coverage in this State, directly or through producers, shall:

- (1) Establish marketing procedures to assure that any comparison of policies by its producers will be fair and accurate;
- (2) Establish marketing procedures to assure excessive insurance is not sold or issued;
- (3) Display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and policy the following:  
 “Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations.”;
- (4) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance currently has long-term care insurance and the types and amounts of any such insurance[;], except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required;
- (5) Every insurer or entity marketing long-term care insurance shall establish auditable procedures for verifying compliance with subsection (a);
- (6) If the state in which the policy or certificate is to be delivered or issued for delivery has a senior insurance counseling program approved by the

commissioner, the insurer, at solicitation, shall provide written notice to the prospective policyholder or certificate holder of a state senior insurance counseling program including the name, address, and telephone number of the program; [and]

- (7) For long-term care health insurance policies and certificates, use the terms “noncancellable” or “level premium” only when the policy or certificate conforms to section 431:10H-202[-];
  - (8) Provide copies of the disclosure forms required in section 431:10H-EEE(c) to the applicant; and
  - (9) Provide an explanation of contingent benefit upon lapse provided for in section 431:10H-233(f).
- (b) In addition to the acts or practices prohibited in article 13 [~~of this chapter~~], all of the following acts and practices are prohibited:
- (1) Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.
  - (2) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend purchase of insurance.
  - (3) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company.
  - (4) Misrepresentation. Falsifying a material fact in selling or offering to sell a long-term care insurance policy.”

SECTION 20. Section 431:10H-230, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) The association shall also:

- (1) At the time of the association’s decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including benefits, features, and rates, and update the examination thereafter in the event of material change;
- (2) Actively monitor the marketing efforts of the insurer and its producers; and
- (3) Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates.

This subsection shall not apply to qualified long-term care insurance contracts.”

SECTION 21. Section 431:10H-231, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) To determine whether the applicant meets the standards developed by the issuer, the producer and issuer shall develop procedures that take the following into consideration:

- (1) The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;

- (2) The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and
- (3) The values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

The issuer, and where a producer is involved, the producer shall make reasonable efforts to obtain the information set out above. The efforts shall include presentation to the applicant, at or prior to application, the "Long-Term Care Insurance Personal Worksheet". The personal worksheet used by the issuer shall contain, at a minimum, information in the format contained in Appendix B of the ~~[July 1998]~~ April, 2002, NAIC Long-Term Care Insurance Model Regulation, in not less than twelve-point type. The issuer may request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer's personal worksheet shall be filed with the commissioner."

SECTION 22. Section 431:10H-231, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The sale or dissemination outside the company or agency by the issuer or producer of information obtained through the personal worksheet in Appendix B of the ~~[July 1998]~~ April, 2002, NAIC Long-Term Care Insurance Model Regulation is prohibited."

SECTION 23. Section 431:10H-231, Hawaii Revised Statutes, is amended by amending subsections (g) and (h) to read as follows:

"(g) At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in Appendix C to the ~~[July 1998]~~ December, 2006, NAIC Long-Term Care Insurance Model Regulation, in not less than twelve-point type.

(h) If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer shall send the applicant a letter similar to the ~~[July 1998]~~ April, 2002, NAIC Long-Term Care Insurance Model Regulation, Appendix D. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternate method of verification shall be made part of the applicant's file."

SECTION 24. Section 431:10H-233, Hawaii Revised Statutes, is amended to read as follows:

"~~[H]§431:10H-233~~ **Nonforfeiture benefit requirement.** (a) This section does not apply to life insurance policies containing accelerated long-term care benefits.

(b) To comply with the requirement to offer a nonforfeiture benefit pursuant to section 431:10H-116, the following shall be met:

- (1) A policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers, and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in subsection ~~[(h);]~~ (j); and

(2) The offer shall be in writing if the nonforfeiture benefit is not otherwise described in the outline of coverage or other materials given to the prospective policyholder.

(c) If the offer required to be made under section 431:10H-116 is rejected, the insurer shall provide the contingent benefit upon lapse described in this section. Even if this offer is accepted for a policy with a fixed or limited premium paying period, the contingent benefit on lapse in subsection (g) shall still apply.

(d) After rejection of the offer required under section 431:10H-116, for individual and group policies without nonforfeiture benefits issued after June 30, 2000, the insurer shall provide a contingent benefit upon lapse.

(e) If a group policyholder elects to make the nonforfeiture benefit an option to the certificate holder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

(f) The contingent benefit on lapse shall be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth in the table below based on the insured's issue age, and the policy or certificate lapses within one hundred twenty days of the due date of the premium so increased. Unless otherwise required, policyholders and certificate holders shall be notified at least thirty days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

<u>Issue Age</u>	<u>Per Cent Increase Over Initial Premium</u>
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%
60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%

Triggers for a Substantial Premium Increase

<u>Issue Age</u>	<u>Per Cent Increase Over Initial Premium</u>
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

(g) A contingent benefit on lapse shall also be triggered for policies with a fixed or limited premium paying period every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, the policy or certificate lapses within one hundred and twenty days of the due date of the premium so increased, and the ratio in subsection (i)(2) is forty per cent or more. Unless otherwise required, policyholders shall be notified at least thirty days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

<u>Issue Age</u>	<u>Per Cent Increase Over Initial Premium</u>
<u>Under 65</u>	<u>50%</u>
<u>65-80</u>	<u>30%</u>
<u>Over 80</u>	<u>10%</u>

This provision shall be in addition to the contingent benefit provided by subsection (f) and where both are triggered, the benefit provided shall be at the option of the insured.

[(g)] (h) On or before the effective date of a substantial premium increase as defined in subsection (f), the insurer shall:

- (1) Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;
- (2) Offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of subsection [(h)-] (j). This option may be elected at any time during the one-hundred-twenty-day period referenced in subsection (f); and
- (3) Notify the policyholder [and] or certificate holder that a default or lapse at any time during the one-hundred-twenty-day period under subsection (f) shall be deemed to be the election offer to convert in paragraph (2)[-], unless the automatic option in subsection (i)(3) applies.

(i) On or before the effective date of a substantial premium increase as defined in subsection (g) above, the insurer shall:

- (1) Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;
- (2) Offer to convert the coverage to a paid-up status where the amount payable for each benefit is ninety per cent of the amount payable in effect

immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the one-hundred-twenty-day period referenced in subsection (g); and

- (3) Notify the policyholder or certificate holder that a default or lapse at any time during the one-hundred-twenty-day period referenced in subsection (g) shall be deemed to be the election of the offer to convert in paragraph (2) if the ratio is forty per cent or more.

~~[(h)]~~ (j) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse~~;~~ in accordance with subsection (f) but not (g), are described in this subsection, as follows:

- (1) For purposes of this subsection, attained age rating is defined as a schedule of premiums starting from the issue date which increases age at least one per cent per year prior to age fifty, and at least three per cent per year beyond age fifty;
- (2) For purposes of this subsection, the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) shall be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as provided in paragraph (3);
- (3) The standard nonforfeiture credit shall be equal to one hundred per cent of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard forfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than thirty times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of subsection ~~[(i);~~ (k);
- (4) The nonforfeiture benefit ~~[and contingent benefit upon lapse]~~ shall begin not later than the end of the third year following the policy or certificate issue date~~[-];~~ provided that the contingent benefit upon lapse shall be effective during the first three years and thereafter;
- (5) Notwithstanding the ~~[preceding sentence, except]~~ provisions in paragraph (4), for a policy or certificate with ~~[a contingent benefit upon lapse or a policy or certificate with]~~ attained age rating, the nonforfeiture benefit shall begin on the earlier of:
  - (A) The end of the tenth year following the policy or certificate issue date; or
  - (B) The end of the second year following the date the policy or certificate is no longer subject to attained age rating; and
- ~~[(5)]~~ (6) Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

~~[(i)]~~ (k) All benefits paid by the insurer while the policy or certificate is in premium paying status and in paid up status shall not exceed the maximum benefits which would be payable if the policy or certificate had remained in premium paying status.

~~[(j)]~~ (l) There shall be no difference in the minimum nonforfeiture benefits as required under this section for group and individual policies.

~~[(k)]~~ (m) The requirements set forth in this section shall become effective July 1, 2000, and shall apply as follows:

- (1) This section shall apply to any long-term care policy issued in this State after June 30, 2000; and

(2) For certificates issued after June 30, 2000, under a group long-term care insurance policy as defined in paragraph (1) under the definition of “group long-term care insurance” in section 431:10H-104, which policy was in force on July 1, 2000, this section shall not apply[-]; provided that the provisions in subsections (c), (g), and (i) that pertain to contingent benefits for a policy with a fixed or limited premium paying period shall apply to any long-term care insurance policy or certificate issued in the State after December 31, 2007; provided further that for new certificates on a group policy as defined in section 431:10H-104, the provisions in subsections (c), (g), and (i) that pertain to contingent benefits for a policy with a fixed or limited premium paying period shall apply after July 1, 2008.

~~[(4)]~~ (n) Premiums charged for a policy or certificate containing nonforfeiture benefits or contingent benefit on lapse shall be subject to the loss ratio requirements of section 431:10H-226 or 431:10H-HHH, whichever is applicable, treating the policy as a whole.

~~[(m)]~~ (o) To determine whether contingent nonforfeiture upon lapse provisions are triggered under subsection (f), a replacing insurer that purchases or assumes a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer.

(p) A nonforfeiture benefit for qualified long-term care insurance contracts that are level premium contracts shall be offered that meets the following requirements:

- (1) The nonforfeiture provision shall be appropriately captioned;
- (2) The nonforfeiture provision shall provide a benefit available in the event of a default in the payment of any premiums and shall state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying contracts approved by the commissioner for the same contract form; and
- (3) The nonforfeiture provision shall provide at least one of the following:
  - (A) Reduced paid-up insurance;
  - (B) Extended term insurance;
  - (C) Shortened benefit period; or
  - (D) Other similar offerings approved by the commissioner.”

SECTION 25. Section 431:10H-235, Hawaii Revised Statutes, is amended to read as follows:

“~~[(H)§431:10H-235]~~ **Standard format outline of coverage; group and individual policies.** This section implements, interprets, and makes specific, the provisions of section 431:10H-112 in prescribing a standard format and the content of an outline of coverage, as follows:

- (1) The outline of coverage shall be a freestanding document, using no smaller than ten-point type;
- (2) The outline of coverage shall contain no material of an advertising nature;
- (3) Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that provide prominence equivalent to the capitalization or underscoring;
- (4) Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated; and

- (5) The format for outline of coverage shall be substantially similar to the Outline of Coverage in ~~[Section 25]~~ section 29 of the ~~[July 1998]~~ April, 2002, NAIC Long-Term Care Insurance Model Regulation.”

### PART III

SECTION 26. Section 431:2-209, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The following records and reports on file with the commissioner shall be confidential and protected from discovery, production, and disclosure for so long as the commissioner deems prudent:

- (1) Complaints and investigation reports;
- (2) Working papers of examinations, complaints, and investigation reports;
- (3) Proprietary information, including trade secrets, commercial information, and business plans, which, if disclosed may result in competitive harm to the person providing the information;
- (4) Any documents or information received from the National Association of Insurance Commissioners, the federal government, insurance regulatory agencies of foreign countries, or insurance departments of other states, territories, and commonwealths that are confidential in other jurisdictions. The commissioner ~~[shall be authorized to]~~ may share information, including otherwise confidential information, with the National Association of Insurance Commissioners, the federal government, insurance regulatory agencies of foreign countries, or insurance departments of other states, territories, and commonwealths so long as the statutes or regulations of the other jurisdictions permit them to maintain the same level of confidentiality as required under Hawaii law.”

SECTION 27. In codifying the new sections added by sections 2, 3, and 4 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 28. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 29. This Act shall take effect on July 1, 2007.

(Approved June 29, 2007.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 234

H.B. NO. 226

A Bill for an Act Relating to Greenhouse Gas Emissions.

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

SECTION 1. (a) The legislature finds that the earth’s atmosphere is now warming at the fastest rate in recorded history, a trend that is projected to cause extensive damage to forests, marine ecosystems, and agriculture. Human communities are also threatened by climate change as seas rise, storms become more intense, and episodes of drought and flooding increase. The scientific evidence is now

compelling that recent climate change is caused at least in part by human activities, especially the burning of fossil fuels, which has driven atmospheric carbon dioxide concentrations to their highest levels in four hundred twenty thousand years.

The legislature further finds that climate change poses a serious threat to the economic well-being, public health, natural resources, and the environment of Hawaii. The potential adverse effects of global warming include a rise in sea levels resulting in the displacement of businesses and residences and the inundation of Hawaii's fresh-water aquifers, damage to marine ecosystems and the natural environment, extended drought and loss of soil moisture, an increase in the spread of infectious diseases, and an increase in the severity of storms and extreme weather events.

On February 2, 2007, the Intergovernmental Panel on Climate Change, a body established by the United Nations, released its fourth assessment of the predicted impacts of global climate change. The panel predicted temperature rises of up to eleven and a half degrees fahrenheit by 2100 and a sea level rise of up to twenty-three inches, with an additional 7.8 inches possible if current melting of the ice sheets in Greenland and Antarctica continues.

Climate change will have detrimental effects on some of Hawaii's largest industries, including tourism, agriculture, recreational, commercial fishing, and forestry. It will also increase the strain on electricity supplies necessary to meet the demand for air conditioning during the hottest times of the year.

The State has long been a leader in environmental stewardship and is endeavoring to lead the way in alternative renewable energy development and use. It is the intent of the legislature that an air pollution reduction program will continue the State's tradition of environmental leadership by placing Hawaii among the nation's leaders in efforts to effect a climate change policy. By reducing emissions in Hawaii, this framework of action will serve as an example to other states, the federal government, and other countries to protect our fragile global environment. By investigating and pioneering technologies that would best meet the unique needs of our island State in achieving a 2020 statewide framework of action, Hawaii will also position its economy, technology centers, financial institutions, and businesses to benefit from national and international efforts to meet this important policy. Therefore, the legislature has outlined a plan of action of first:

- (1) Declaring a policy, updating an existing statewide inventory of emission; and then
  - (2) Establishing a regulatory scenario based on an analysis of approaches developed through the work plan of a task force.
- (b) Accordingly, the purpose of this Act is to:
- (1) Reduce, by January 1, 2020, greenhouse gas emissions in the State to levels at or below the best estimations and updates of the inventory of greenhouse gas emissions estimates for 1990; and
  - (2) Establish a greenhouse gas emissions reduction task force to prepare a work plan and regulatory scheme for implementing the maximum practically and technically feasible and cost-effective reductions in greenhouse gas emissions from sources or categories of sources of greenhouse gases to achieve the statewide greenhouse gas emissions limits by 2020.

**SECTION 2. Declaration of policy.** By January 1, 2020, the State of Hawaii shall reduce statewide greenhouse gas emissions to levels at or below the best estimations and updates of the inventory of greenhouse gas emissions estimates for 1990.

**SECTION 3.** By December 31, 2008, the department of business, economic development, and tourism and the department of health shall complete an updated

inventory of emission sources or categories of sources from the past report prepared by the department of business, economic development, and tourism and the department of health, entitled "Inventory of Hawaii Greenhouse Gas Emissions Estimates for 1990", dated July 1997; provided that at least one public hearing shall be held prior to the completion of the updated inventory.

**SECTION 4. Greenhouse gas emissions reduction task force.** There is established the greenhouse gas emissions reduction task force within the department of business, economic development, and tourism for administrative purposes only. The task force shall be comprised of the following:

- (1) Two members appointed by the president of the senate from affected business sectors;
- (2) Two members appointed by the speaker of the house of representatives from affected business sectors;
- (3) The deputy director of the department of health's environmental health administration or the deputy director's designee, who shall co-chair the task force;
- (4) The director of business, economic development, and tourism or the director's designee, who shall co-chair the task force;
- (5) Two members from the University of Hawaii at Manoa climate change commission, selected by members of the Commission;
- (6) A member from an environmental organization appointed by the speaker of the house of representatives; and
- (7) A member from an environmental organization appointed by the president of the senate.

For the purposes of this section "affected business sector" refers to the following business sectors: electrical utilities, refinery operations, ground transportation industry, or maritime industry.

**SECTION 5. Objective of the task force.** (a) Before December 1, 2009, the greenhouse gas emission reduction task force shall prepare a work plan and regulatory scheme for implementing the maximum practically and technically feasible and cost-effective reductions in greenhouse gas emissions from sources or categories of sources of greenhouse gases to achieve the statewide greenhouse gas emissions limit as adopted in section 2 of this Act. For the purposes of this Act, "cost-effective" is defined as being the cost per unit of reduction.

(b) Each member of the task force is encouraged to commit as much time, expertise, and information as is available to the individual member.

(c) Confidential information provided to the task force that is exempt from public disclosure under section 92F-13(4), Hawaii Revised Statutes, shall be held in confidence by the task force or aggregated to the extent necessary to ensure confidentiality as required by chapter 92F, Hawaii Revised Statutes.

**SECTION 6. Work plan.** The work plan shall include but is not limited to the following objectives:

- (1) Consultation with all state agencies having jurisdiction over sources of greenhouse gases, including the public utilities commission, on all elements of its plan that pertain to energy-related matters, including but not limited to:
  - (A) Electrical generation;
  - (B) The provision of reliable and affordable electrical service;
  - (C) Petroleum refining; and
  - (D) Statewide fuel supplies,

to ensure the greenhouse gas emissions reduction activities to be adopted and implemented are complementary, minimize duplication, and can be implemented in an efficient and cost-effective manner.

- (2) Identification and recommendations on:
  - (A) Direct emission reduction measures;
  - (B) Alternative compliance mechanisms;
  - (C) Market-based compliance mechanisms; and
  - (D) Potential monetary and non-monetary incentives,
 for sources and categories of sources that are necessary or desirable to facilitate the achievement of the maximum feasible and cost-effective reductions of greenhouse gas emissions by 2020;
- (3) Consideration of relevant information pertaining to greenhouse gas emissions reduction programs to ascertain progressive efforts from other locations to postulate control mechanisms most applicable to Hawaii. The task force may consult with other states, the federal government, nongovernmental organizations, and, if applicable, other nations to identify effective strategies and methods to reduce greenhouse gases, manage greenhouse gas control programs, and to facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas emission reduction programs;
- (4) Investigation and development of analytical tools, economic models, or other scientific methods to evaluate the total potential costs and total potential economic and non-economic benefits of the plan for reducing greenhouse gases to the State's economy, environment, and public health;
- (5) Consideration of the relative contribution of each source or source category to statewide greenhouse gas emissions and the potential for adverse effects on small businesses, and recommendation of a minimum threshold of greenhouse gas emissions below which emission reductions requirements shall not apply;
- (6) Identification of opportunities for emission reductions measures from all verifiable and enforceable voluntary actions, including but not limited to carbon sequestration projects and best management practices;
- (7) Examination and use of market-based compliance mechanisms to achieve emission reductions and:
  - (A) Consideration of the potential for direct, indirect, and cumulative emission impacts from these mechanisms, including localized impacts in communities that are already adversely impacted by air pollution;
  - (B) Design of any market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants identified by the Environmental Protection Agency; and
  - (C) Recommendations to maximize additional environmental and economic benefits for Hawaii, as appropriate;
- (8) Suggested rules governing how market-based compliance mechanisms may be used by regulated entities subject to greenhouse gas emission limits and mandatory emission reporting requirements to achieve compliance with their greenhouse gas emissions limits;
- (9) Suggested regulation to control mobile sources of greenhouse gas emissions to achieve reductions in statewide greenhouse gas emissions;
- (10) Recommendations to minimize "leakage" or a reduction in emissions of greenhouse gases within the State that is offset by an increase in emissions of greenhouse gases outside the State;

- (11) Review and recommendations of a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to this Act;
- (12) Implementation of a series of public workshops to give interested parties an opportunity to comment on the work plan. The task force shall conduct at least one of these workshops in each county; and
- (13) Review and revision of the work plan to achieve the maximum technologically feasible and cost-effective reductions of greenhouse gas emissions at least once every five years.

SECTION 7. Not less than twenty days prior to the convening of the regular session of 2010 and every fifth regular session following the regular session of 2010, the greenhouse gas emission reduction task force shall submit to the legislature a copy of its work plan and proposed regulatory scheme, along with any proposed legislation, and any five year update to the work plan and proposed regulatory scheme, for achieving the maximum practically and technically feasible and cost-effective reductions in greenhouse gas emissions from sources or categories of sources of greenhouse gases.

SECTION 8. Chapter 342B, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . GREENHOUSE GAS EMISSIONS**

**§342B-A Statewide greenhouse gas emissions limit, adoption.** A statewide greenhouse gas emissions limit to be achieved by 2020 is hereby established that is equal to or below the level of the statewide greenhouse gas emissions in 1990, as determined by section 3 of Act , Session Laws of Hawaii 2007; provided that for the purposes of this Act greenhouse gas emissions from airplanes shall not be included.

**§342B-B Greenhouse gas emissions limits; rules.** (a) Before December 31, 2011, the director shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes:

- (1) Establishing greenhouse gas emission limits applicable to sources or categories of sources, to be achieved by January 1, 2020, and establishing emission reduction measures to achieve the maximum practically and technically feasible and cost-effective reductions in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit; and
- (2) Requiring the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this part,

to become operative beginning on January 1, 2012.

(b) The director, to the extent feasible to achieve the statewide greenhouse gas emissions limit, shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, and this section based upon the recommendations and findings of the work plan created pursuant to section 6 of Act , Session Laws of Hawaii 2007.

(c) Any rule adopted by the director pursuant to this section shall ensure all of the following:

- (1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the director; and
- (2) If applicable, the greenhouse gas emission reduction occurs over the same time period and is equivalent in amount to any direct emission reduction required pursuant to this part.

(d) The director shall periodically review and update state emission reporting requirements and endeavor to make the requirements consistent with the require-

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ments of international, federal, and other states' greenhouse gas emission reporting programs, as necessary.

(e) After January 1, 2012, the director may revise rules adopted pursuant to this section and adopt additional rules to further this part.

**§342B-C Schedule of fees; establishment.** The director may adopt rules pursuant to chapter 91, Hawaii Revised Statutes, that specify a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to this part. The revenues collected pursuant to this section shall be deposited into the clean air special fund established under section 342B-32, Hawaii Revised Statutes, to be used for the purposes thereof."

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for carrying out the purposes of this Act, including the hiring of necessary staff.

The sums appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 10. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 11. 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 12. In codifying the new sections added by section 8 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 13. In printing this Act, the revisor of statutes shall substitute in sections 342B-A, 342B-B, and 342B-C, Hawaii Revised Statutes, of section 8, the corresponding act number of this Act.

SECTION 14. This Act shall take effect on July 1, 2007.

(Approved June 30, 2007.)

## ACT 235

H.B. NO. 1899

A Bill for an Act Relating to Kawai Nui Marsh.

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

SECTION 1. Kawai Nui marsh, encompassing approximately eight hundred thirty acres of land in Kailua, Oahu, is one of the state's largest remaining wetlands and an ecological treasure. It has been identified by the United States Fish and Wildlife Service as a primary habitat for endemic and endangered native Hawaiian birds. In 2005, the Ramsar Convention on Wetlands designated Kawai Nui marsh a wetland of international importance.

Act 314, Session Laws of Hawaii 1990 (Act 314), directed the transfer to the State of the parcel owned by the city and county of Honolulu and bearing tax map key number 4-2-16:1, which encompasses the bulk of Kawai Nui marsh. Both the State and city and county of Honolulu own other parcels that are part of the wetlands ecosystem of Kawai Nui marsh.

Since the passage of Act 314, the State and city and county of Honolulu have disputed their respective management responsibilities of Kawai Nui marsh. This dispute has delayed restoration and rehabilitation of the marsh to the point where the ability of the marsh to support its native wildlife population is critically impaired. It is in the public interest that the State immediately take primary responsibility for the economic, ecological, and cultural resources of Kawai Nui marsh. Federal funding is available to the State to carry out this responsibility, and the funding opportunities could be lost if the dispute between the State and city and county of Honolulu is not resolved.

The purpose of this Act is to transfer lot 3, as shown on land division parcel map file no. 18-3-3-13, from the city and county of Honolulu to the State, to enable the State to meet its responsibilities to preserve this important wetland.

**SECTION 2.** The estate, right, title, and interest, and any appurtenance thereto, of the city and county of Honolulu relating to Kawai Nui marsh, lot 3, as shown on land division parcel map file no. 18-3-3-13 and the levee system that runs from Kailua road to the Oneawa canal, shall be vested in the State in fee simple. At the time of the transfer of Kawai Nui marsh to the State, the State shall enter into a sub-agreement with the city and county of Honolulu whereby the State shall assume responsibility for the performance of and compliance with the local cooperation agreement between the United States Department of the Army and the city and county of Honolulu for construction of the Kawai Nui marsh flood control project, dated October 3, 1993, as amended by Amendment #1 dated March 10, 2004, and the operation and maintenance manual for Kawainui Swamp flood protection works, prepared by the United States Army Corps of Engineers, only as and to the extent that the aforesaid local cooperation agreement and the operation and maintenance manual for Kawainui Swamp flood protection works pertain to the levee system; provided that the city and county of Honolulu and the State agree that the State shall not be required to become a party to the local cooperation agreement or enter into a separate agreement with the United States Department of the Army to assume ownership of the levee system.

**SECTION 3.** Act 314, Session Laws of Hawaii 1990, as amended by Act 47, Session Laws of Hawaii 1998, is repealed.

**SECTION 4.** All land transfers shall be completed no later than September 1, 2007.

**SECTION 5.** This Act shall take effect on July 1, 2007.

(Approved June 30, 2007.)

## ACT 236

H.B. NO. 1008

A Bill for an Act Relating to Children's Health Care.

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

**SECTION 1.** Although estimates of the number of uninsured children in the state vary, it is commonly acknowledged that there is a gap group that is ineligible

for any state or federal health care coverage. The majority of children in this gap group are those whose family income is at or just over three hundred per cent of the federal poverty level. Others in this group may include infants born to uninsured mothers, immigrants with temporary visas, and undocumented immigrants who have been in Hawaii for less than six months. In Hawaii, the total number of those who fall into the gap group could be as high as three thousand five hundred children.

Children who remain uninsured typically do not receive an appropriate level of medical care. Children who lack a source of care or who turn regularly to a hospital emergency department are unlikely to receive preventive care or early and regular management of acute or chronic health conditions.

A study performed by the Urban Institute, a nonpartisan economic and social policy research organization, showed that regardless of age, race, ethnicity, income, or health status, uninsured children were much less likely to have received a well-child checkup within the past year and were more likely than insured children to report an unmet need for medical care that was associated with concerns about cost.

Health insurance helps children and youth receive regular health care so they can participate in school and other activities. Often, parents experience hardship when an uninsured child is sick because of the added stress of the child's medical bills.

The purpose of this Act is to establish the Hawaii children's health care program and the Hawaii infant care program as temporary three-year pilot programs and to expand and monitor for three years health care coverage for children in Hawaii by:

- (1) Providing continuous, quality health care services to uninsured newborn children who are one day, but not more than thirty days of age through the Hawaii infant care program; provided that these children may enroll in the Hawaii children's health care program upon reaching thirty-one days of age;
- (2) Providing health care coverage to certain children who are at least thirty-one days, but less than nineteen years old through a public-private partnership between the department of human services and one or more managed care plans operating in the state under chapter 432, Hawaii Revised Statutes, that offer accident and health or sickness insurance plans;
- (3) Providing access to medical care free-of-charge for certain children less than nineteen years of age whose family income is at or below three hundred per cent of the federal poverty level;
- (4) Providing medical assistance under QUEST-Net at no charge to children less than nineteen years of age whose family income is above two hundred fifty per cent and does not exceed three hundred per cent of the federal poverty level for Hawaii and who are otherwise eligible for QUEST-Net benefits; and
- (5) Appropriating funds for the purposes of this Act.

SECTION 2. (a) There is established the Hawaii infant health care program as a temporary three-year pilot program to provide continuous, quality health care services to uninsured newborn children living in Hawaii who are one day, but not more than thirty days of age, up to \$10,000 of health care assistance per eligible child, subject to the appropriation of general funds for the program.

(b) It is not the intent of the legislature to discourage employers from offering to pay, or from paying for, dependent coverage for their employees, nor that this Act supplant employer-sponsored dependent coverage plans.

(c) Services provided pursuant to subsection (a) shall be limited to those types of services for children covered by QUEST.

(d) The department of human services or its designated contractor shall directly reimburse any health care provider or managed care plan providing the services to infants under the Hawaii infant health care program, subject to the appropriation of general funds for the program. The department may contract with an appropriate entity to provide these services.

(e) The department shall report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions and annually thereafter. The report shall include:

- (1) The number of children who were provided services through the Hawaii infant health care program;
- (2) A list of health care providers or managed care plans participating in the program;
- (3) The annual cost of the program; and
- (4) Any proposed legislation necessary to improve the program.

SECTION 3. (a) There is established the Hawaii children's health care program as a temporary three-year pilot program to provide health care coverage to uninsured children who live in Hawaii. The department of human services shall provide health care coverage through a public-private partnership, established as a contract to provide health and human services pursuant to chapter 103F, Hawaii Revised Statutes, between the department and one or more managed care plans operating in the state under chapter 432, Hawaii Revised Statutes, that offers accident and health or sickness insurance plans.

(b) It is not the intent of the legislature to discourage employers from offering to pay, or from paying for, dependent coverage for their employees, nor that this Act supplant employer-sponsored dependent coverage plans.

(c) To qualify, a child shall:

- (1) Be at least thirty-one days to less than nineteen years old;
- (2) Be living in Hawaii;
- (3) Have been uninsured continually for at least six months; provided that infants thirty-one days to six months of age shall have been uninsured continually since birth; and
- (4) Have been ineligible during the six months the child was uninsured for any other state or federal health care coverage and be currently ineligible for any other state or federal health care coverage; provided that:
  - (A) All children enrolled in a managed care plan's children's plan as of the effective date of this Act shall be eligible for enrollment into the Hawaii children's health care program without being subject to the requirement of being uninsured for the precedent six months in subsection (c)(3);
  - (B) Children who are at least thirty-one days but less than nineteen years old who become ineligible for a med-QUEST division health care coverage program due to an increase in family income may enroll in the program upon disenrollment from a med-QUEST division health care coverage program; and
  - (C) Uninsured newborn children who are one day, but not more than thirty days of age who were enrolled in the Hawaii infant health care program shall be eligible for enrollment in the Hawaii children's health care program without being subject to the requirement of being uninsured for the precedent six months in subsection (c)(3).

(d) The department of human services and the managed care plans shall share equally in the cost of the premium for each child enrolled in the program subject to the appropriation of general funds for the program.

(e) The department of human services shall pay the State's share of the premiums under the program on a quarterly basis.

(f) The managed care plans participating in the pilot program shall be responsible for determining the eligibility of program applicants and of enrolling applicants in the pilot program.

(g) The managed care plans participating in the program shall provide a quarterly report to the department of human services and the legislature on the number of children enrolled in the program.

(h) The department shall ensure that other private organizations have the opportunity to partner with the State to offer coverage to uninsured children under the program; provided that plan benefits to be provided shall be equal to or better than those offered through the program established by the State and managed care plans under subsection (a).

(i) The department of human services and any participating managed care plan shall report to the legislature no later than twenty days prior to the start of the 2008 and 2009 regular sessions on:

- (1) Any problems experienced with the program involving crowding out eligible participants;
- (2) Instances of people canceling their previous coverage to receive this free coverage;
- (3) The amount of funding used and for what purposes;
- (4) Any other problems encountered in the administration of the program; and
- (5) Any proposed legislation.

SECTION 4. Section 346-59.4, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§346-59.4]]~~ **Medical assistance to other children.** The department shall provide state-funded medical assistance~~[-, of up to two hundred per cent of the federal poverty level for Hawaii,]~~ free of charge to persons less than nineteen years of age whose family income is at or below three hundred per cent of the federal poverty level for Hawaii and who are:

- (1) Legal permanent residents who arrived after August 22, 1996;
- (2) Persons who are permanently residing under color of law; and
- (3) Nonimmigrants from the Trust Territories of the Pacific Islands who are citizens of:
  - (A) The Marshall Islands;
  - (B) The Federated States of Micronesia; or
  - (C) Palau, as defined by the Compact of Free Association Act of 1985, P.L. 99-239, or the Compact of Free Association between the United States and the Government of Palau, P.L. 99-658,

who are otherwise eligible for benefits under the State's medicaid programs, including QUEST and the State's children health insurance program, but are ineligible due to restricted eligibility rules imposed by Title XXI of the Social Security Act, the Personal Responsibility and Work Reconciliation Act of 1996, the Compact of Free Association Act of 1985, P.L. 99-239, the Compact of Free Association between the United States and the Government of Palau, P.L. 99-658, or any other provision of federal law denying medical assistance to nonimmigrants who are citizens of the Marshall Islands, the Federated States of Micronesia, or Palau.”

SECTION 5. The department of human services shall provide medical assistance under QUEST-Net at no charge to children less than nineteen years of age whose family income is above two hundred fifty per cent and does not exceed three

hundred per cent of the federal poverty level for Hawaii and who are otherwise eligible for QUEST-Net benefits.

SECTION 6. It is the legislature's intent to make health care coverage for uninsured children more accessible for qualified individuals and thereby increase the overall health of Hawaii's residents, promote healthy communities, and protect the public health and welfare. It is not the intent of the legislature to discourage employers from offering to pay, or from paying for, dependent coverage for their employees, nor that this Act supplant employer-sponsored dependent coverage plans.

SECTION 7. 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 2007-2008 and the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2008-2009 to provide continuous, quality health care services to uninsured newborn children who are one day, but not more than thirty days of age through the Hawaii infant health care program.

The sums appropriated shall be expended by the department of human services for the purposes of section 2 of this Act.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$700,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$900,000 or so much thereof as may be necessary for fiscal year 2008-2009 to fund the Hawaii children's health care program pursuant to section 3 of this Act.

The sums appropriated shall be expended by the department of human services for the purposes of section 3 of this Act.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$109,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$218,000 or so much thereof as may be necessary for fiscal year 2008-2009 to provide health coverage pursuant to chapter 346-59.4, Hawaii Revised Statutes.

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

SECTION 10. There is appropriated out of the general revenues of the State of Hawaii the sum of \$350,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$700,000 or so much thereof as may be necessary for fiscal year 2008-2009 to provide medical assistance under QUEST-Net pursuant to section 5 of this Act.

The sums appropriated shall be expended by the department of human services for the purposes of section 5 of this Act.

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$52,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for two full-time equivalent permanent (2.00 FTE) eligibility worker I positions, to provide services pursuant to sections 2, 4, and 5 of this Act.

The sums appropriated shall be expended by the department of human services for the purposes of sections 2, 4, and 5 of this Act.

SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 to, among other things, purchase computer equipment, office furniture,

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and other office supplies and equipment necessary to implement sections 2, 4, and 5 of this Act.

The sums appropriated shall be expended by the department of human services for the purposes of sections 2, 4, and 5 of this Act.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect upon July 1, 2007; provided that on June 30, 2010, this Act shall be repealed and section 346-59.4, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

(Approved June 30, 2007.)

**Note**

1. So in original.

**ACT 237**

H.B. NO. 928

A Bill for an Act Relating to Social Services.

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

**PART I**

SECTION 1. The legislature finds that the federal section 8 homeownership option program and the federal housing choice voucher family self-sufficiency program provide unique opportunities for low- and moderate-income earners to save and pay for homeownership. The section 8 homeownership option program provides continued monthly homeownership assistance payments to qualified section 8 housing choice voucher program participants to help reduce their monthly mortgage payments as well as pay for other monthly homeownership expenses in lieu of rental payments.

The housing choice voucher family self-sufficiency program provides funds to public housing agencies to hire coordinators to help participating families set a plan for employment, education, and possibly homeownership. A baseline rent is established in the first year. As a family's income increases, the family continues to pay a percentage of its income toward rent, and the difference between its new rental payment and its baseline rent is deposited into an escrow account that can be applied towards the goals in the plan.

The purpose of this part is to increase low- and moderate-income families' homeownership by:

- (1) Appropriating funds to:
  - (A) Increase outreach to increase enrollment in the section 8 homeownership option and the housing choice voucher family self-sufficiency programs;
  - (B) Increase administrative support for both of the programs;
  - (C) Provide matching grants or loan forgiveness to section 8 homeownership option program participants to help with down payments; and
  - (D) Provide additional state matches to housing choice voucher family self-sufficiency program participants to help participants build homeownership savings; and
- (2) Exempting family self-sufficiency escrow accounts from the asset test for public assistance.

SECTION 2. Section 346-29, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) No applicant or recipient who is found guilty of fraudulently misrepresenting residence to obtain assistance in two or more states shall be entitled to public assistance under this chapter for ten years from date of conviction. No applicant or recipient shall be entitled to public assistance under this chapter who is a fugitive felon or who is in violation of a condition of probation or parole or 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, 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 a public institution or resident of a medical institution 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) Disregard the amounts of earned or unearned income as required or allowed by federal acts and other regulations, to receive federal funds and disregard from gross earned income twenty per cent plus \$200 and a percentage of the remaining balance of earned income consistent with federal regulations and other requirements;
- (2) Consider as net income in all cases the income as federal acts and other regulations require the department to consider for receipt of federal funds and may consider the additional income and resources as these acts and regulations permit [~~now or in the future,~~] to be considered;
- (3) For households with minor dependents, disregard a total of \$5,000 in assets and the value of one motor vehicle in determining the needs of persons for financial assistance; provided that the amount to be disregarded shall not exceed standards under [~~the department’s~~] federally funded financial assistance programs. This paragraph shall not apply to persons eligible for federal [~~Supplemental Security Income~~] supplemental security income benefits, aid to the aged, blind or disabled, or general assistance to households without minor dependents. In determining the needs of [~~such~~] persons[~~;~~] eligible for federal supplemental security income benefits, aid to the aged, blind, or disabled, or general assistance to households without minor dependents, the department shall apply all the resource retention and exclusion requirements under the federal [~~Supplemental Security Income Program;~~] supplemental security income program;
- (4) Apply the resource retention requirements under the federal [~~Supplemental Security Income Program~~] supplemental security income program in determining the needs of a single person for medical assistance only;
- (5) Apply the resource retention requirements under the federal [~~Supplemental Security Income Program~~] 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) Disregard amounts of emergency assistance granted under section 346-65;
- (7) Not consider as income or resources any payment for services to or on behalf of, or any benefit received by, a participant under the first to work program of part XI, other than wages. Wages earned by a partici-

part while participating in the first to work program shall be considered income of the participant, unless the wages are excluded or disregarded under any other law;

- (8) 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) 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) 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 transfer of certain assets was made solely to make the applicant eligible for assistance under this chapter[-]; and
- (12) Not consider as income or resources any funds deposited into a family self-sufficiency escrow account on behalf of a participant under a federal housing choice voucher family self-sufficiency program as required or allowed under federal law."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for the Hawaii public housing authority to:

- (1) Increase outreach to increase enrollment in the section 8 homeownership option and the housing choice voucher family self-sufficiency programs;
- (2) Increase administrative support for both of the programs;
- (3) Provide matching grants or loan forgiveness to section 8 homeownership option program participants to help with down payments; and
- (4) Provide additional state matches to housing choice voucher family self-sufficiency program participants to help participants build homeownership savings.

The sums appropriated shall be expended by the Hawaii public housing authority for the purposes of this part.

## PART II

SECTION 4. Section 346-53, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The director, pursuant to chapter 91, shall determine the rate of payment for domiciliary care, including care provided in licensed developmental disabilities domiciliary homes, community care foster family homes, and certified adult foster homes, to be provided to recipients who are eligible [either] for Federal Supplementary Security Income[,] or public assistance [in accordance with state standards], or both. The director shall provide for level of care payment as follows:

- (1) For ~~[those]~~ adult residential care homes classified as facility type I, licensed developmental disabilities domiciliary homes as defined under section 321-15.9, community care foster family homes as defined under section 346-331, and certified adult foster homes as defined under section 321-11.2, the state supplemental payment shall not exceed ~~[\$621.90; and] \$641.90;~~
- (2) For ~~[those]~~ adult residential care homes classified as facility type II, the state supplemental payment shall not exceed ~~[\$729.90.] \$749.90; and~~
- (3) For skilled nursing facilities and intermediate facilities, the state supplemental payment shall not exceed \$20.

If the operator does not provide the quality of care consistent with the needs of the individual to the satisfaction of the department, the department may remove the recipient to another facility.

The department shall handle abusive practices under this section in accordance with chapter 91.

Nothing in this subsection shall allow the director to remove a recipient from an adult residential care home or other similar institution if the recipient does not desire to be removed and the operator is agreeable to the recipient remaining, except where the recipient requires a higher level of care than provided or where the recipient no longer requires any domiciliary care.”

### PART III

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

SECTION 6. This Act shall take effect on July 1, 2007.

(Approved June 30, 2007.)

## ACT 238

H.B. NO. 400

A Bill for an Act Relating to Agriculture.

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

SECTION 1. The legislature finds that a viable agriculture industry requires a steady, reliable supply of water. However, drought conditions continue to adversely affect our farms and ranches, hampering our ability to produce quality products on a consistent basis throughout the year.

The legislature believes that to address the harmful impact of droughts, mitigation measures laid out in the Hawaii drought plan must be implemented. The goal of the Hawaii drought plan is to develop coordinated emergency response mechanisms while at the same time outlining steps toward mitigating the effects of future drought occurrences. The Hawaii drought plan provides clear policies and specifies response entities to implement immediate, short-term and long-term response measures to mitigate the impact of droughts.

## ACT 239

The legislature also finds that in 2004, county drought committees were formed for each of the four counties in Hawaii. Each of the county drought committees developed a drought mitigation strategy for its respective county, with a focus on drought mitigation projects. These county drought mitigation strategies represent the local needs and concerns of each county and are incorporated by reference into the Hawaii drought plan.

The legislature further finds that to implement the Hawaii drought plan adequately, sufficient funding to the counties is necessary to address the many challenges that our agriculture industry faces in preparing for droughts.

The purpose of this Act is to provide funding to pursue drought mitigation projects and measures in each county of the state.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 for drought mitigation projects and measures in each county of the state.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2007.

(Approved June 30, 2007.)

## ACT 239

H.B. NO. 1719

A Bill for an Act Relating to General Excise Tax.

*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 “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;to any person or common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state on the shipper’s vessels or airplanes;
- (3) Amounts received by the manager, submanager, or board of directors of:
  - (A) An association of apartment owners of a condominium property regime established in accordance with chapter 514A or 514B; or

- (B) A nonprofit homeowners or community association incorporated in accordance with chapter 414D 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 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; 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 paragraph:
- [~~(A)~~] "Prescription drugs" are those drugs defined under section 328-1 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 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;
  - (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;
  - (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, 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;
  - (11) Amounts received from foreign diplomats and consular officials who are holding cards issued or authorized by the United States Department of State granting them an exemption from state taxes; and
  - (12) Amounts received as rent for the rental or leasing of aircraft or aircraft engines used by the lessees or renters for interstate air transportation of passengers and goods. For purposes of this paragraph, payments made pursuant to a lease shall be considered rent regardless of whether the lease is an operating lease or a financing lease. The definition of "interstate air transportation" is the same as in 49 U.S.C. 40102."

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 or from a timeshare association, and amounts received by the sub-operator of a hotel from the owner of the hotel, from a timeshare association, or from the operator of the hotel, in amounts equal to and which are disbursed by the operator or suboperator 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[-] or sub-operator.

“Hotel” means an operation as defined in section 445-90[-] or a timeshare plan as defined in section 514E-1.

“Operator” means any person who, pursuant to a written contract with the owner of a hotel[-] or timeshare association, operates or manages the hotel for the owner[-] or timeshare association.

“Owner” means the fee owner or lessee under a recorded lease of a hotel[-].

“Suboperator” means any person who, pursuant to a written contract with the operator, operates or manages the hotel as a subcontractor of the operator.

“Timeshare association” means an “association” as that term is defined in section 514E-1;

- (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.

“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.

“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;

- (5) Taxes on nursing facility income imposed by chapter 346E and passed on and collected by operators of nursing facilities;
- (6) Amounts received under property and casualty insurance policies for damage or loss of inventory used in the conduct of a trade or business located within the State or a portion thereof that is declared a natural disaster area by the governor pursuant to section 209-2;
- (7) Amounts received as compensation by community organizations, school booster clubs, and nonprofit organizations under a contract with the chief election officer for the provision and compensation of precinct officials and other election-related personnel, services, and activities, pursuant to section 11-5;
- (8) Interest received by a person domiciled outside the State from a trust company (as defined in section 412:8-101) acting as payment agent or trustee on behalf of the issuer or payees of an interest bearing instrument or obligation, if the interest would not have been subject to tax under this chapter if paid directly to the person domiciled outside the State without the use of a paying agent or trustee; provided that if the interest would otherwise be taxable under this chapter if paid directly to the person domiciled outside the State, it shall not be exempt solely because of the use of a Hawaii trust company as a paying agent or trustee;
- (9) Amounts received by a management company from related entities engaged in the business of selling interstate or foreign common carrier telecommunications services in amounts equal to and which are disbursed by the management company 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 related entities engaged in the business of selling interstate or foreign common carrier telecommunications services and employed by the management company.

“Management company” means any person who, pursuant to a written contract with a related entity engaged in the business of selling interstate or foreign common carrier telecommunications services, provides managerial or operational services to that entity.

“Related entities” means:

- (A) An affiliated group of corporations within the meaning of section 1504 (with respect to affiliated group defined) of the federal Internal Revenue Code of 1986, as amended;
- (B) A controlled group of corporations within the meaning of section 1563 (with respect to definitions and special rules) of the federal Internal Revenue Code of 1986, as amended;
- (C) Those entities connected through ownership of at least eighty per cent of the total value and at least eighty per cent of the total voting power of each such entity (or combination thereof), including partnerships, associations, trusts, S corporations, nonprofit corporations, limited liability partnerships, or limited liability companies; and
- (D) Any group or combination of the entities described in paragraph (C) constituting a unitary business for income tax purposes;

- whether or not the entity is located within or without the State or licensed under this chapter; and
- (10) Amounts received as grants under section 206M-15.”

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

SECTION 4. This Act shall take effect on January 1, 2008; provided that this Act shall be repealed on December 31, 2009, and section 237-24.3, Hawaii Revised Statutes, and section 237-24.7, Hawaii Revised Statutes, shall be reenacted in the form in which they read on December 31, 2007.

(Approved July 2, 2007.)

## ACT 240

H.B. NO. 1207

A Bill for an Act Relating to Dishonored Payments.

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

SECTION 1. Section 40-35.5, Hawaii Revised Statutes, is amended to read as follows:

**“§40-35.5 Assessment and collection of service charges for dishonored [items.] payments.** (a) Unless otherwise provided by law or rules ~~[having the force and effect of law]~~, every public accountant receiving revenue or other moneys on account of the State shall assess and collect a service charge in the amount of[:

- (1) ~~\$15 for any check or electronic funds transfer; and~~
- (2) ~~\$7.50 for any draft, certificate of deposit, or other negotiable instrument;]~~ \$25 for any remittance for payment that

the public accountant receives that is dishonored for any reason. A public accountant shall require payment of the full amount of the dishonored payment, plus the service charge in cash [or], by certified or cashier's check, or by bank or postal money order. The amount of the service charge shall be deposited with the director of finance as a realization of the general fund.

(b) The service charge shall be enforced as follows:

- (1) For charges due on dishonored checks written or electronic funds transfers made for payment of any tax administered by the department of taxation under title 14, the charges shall be nonwaivable penalties and shall be made a part of the tax for which the payment was made in the same manner as penalties are made part of the tax under section 231-39; and
- (2) For ~~[charges due on]~~ other dishonored ~~[items,] payments, if payment of the full amount of the dishonored payment plus the service charge is not made,~~ the public accountant shall refer the entire matter, including the service charge due on the dishonored [item and interest on the penalty.] payment, to the department of the attorney general or a collection agency bonded under chapter 443B for collection.

~~[(c) Interest on the penalty at the rate of two-thirds of one per cent a month or fraction of a month shall be paid for the period beginning the first calendar day after the date of notification of dishonor and ending on the date paid.~~

~~(d) (c) All penalties [including interest thereon,] for dishonored [items] payments shall be debts due the State.~~

## ACT 241

[(e)] (d) Penalties [~~and interest~~] collected for dishonored [~~items~~] payments by the department of taxation pursuant to this section shall be collected in the same manner as are taxes under chapter 231. The penalty shall be a realization of the general fund in the same manner as other penalties collected by the department of taxation.

(e) No interest shall be charged on any penalty.”

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

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

(Approved July 2, 2007.)

## ACT 241

S.B. NO. 921

A Bill for an Act Relating to Condominium Association Records.

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

SECTION 1. The legislature finds that the high costs to obtain copies of condominium association records pursuant to section 514B-154, Hawaii Revised Statutes, can be excessive and can prevent some members from obtaining the information.

The purpose of this Act is to establish that only reasonable costs can be charged if a member wants to obtain association records.

SECTION 2. Section 514B-154, Hawaii Revised Statutes, is amended to read as follows:

**“§514B-154 Association records; availability; disposal; prohibitions.** (a) The association’s most current financial statement shall be provided to any interested unit owner at no cost or on twenty-four-hour loan, at a convenient location designated by the board. The meeting minutes of the board of directors, once approved, for the current and prior year shall either:

- (1) Be available for examination by apartment owners at no cost or on twenty-four-hour loan at a convenient location at the project, to be determined by the board of directors; or
- (2) Be transmitted to any apartment owner making a request for the minutes, by the board of directors, the managing agent, or the association’s representative, within fifteen days of receipt of the request; provided that the minutes shall be transmitted by mail, electronic mail transmission, or facsimile, by the means indicated by the owner, if the owner indicated a preference at the time of the request; and provided further that the owner shall pay a reasonable fee for administrative costs associated with handling the request.

Costs incurred by apartment owners pursuant to this subsection shall be subject to section 514B-105(d).

(b) Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices of the association for the duration those records are kept by the association and delinquencies of ninety days or more shall be available for examination by unit owners at convenient hours at a place designated by the board; provided that:

- (1) The board may require owners to furnish to the association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interests of the association [or], its members, or both; and
- (2) Owners shall pay for administrative costs in excess of eight hours per year.

Copies of these items shall be provided to any owner upon the owner's request; provided that the owner pays a reasonable fee for duplication, postage, stationery, and other administrative costs associated with handling the request.

(c) After any association meeting, and not earlier, unit owners shall be permitted to examine proxies, tally sheets, ballots, owners' check-in lists, and the certificate of election; provided that:

- (1) Owners shall make a request to examine the documents within thirty days after the association meeting;
- (2) The board may require owners to furnish to the association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interest of the association or its members or both; and
- (3) Owners shall pay for administrative costs in excess of eight hours per year.

If there are no requests to examine proxies and ballots, the documents may be destroyed thirty days after the association meeting. If there are requests to examine proxies and ballots, the documents shall be kept for an additional sixty days, after which they may be destroyed. Copies of tally sheets, owners' check-in lists, and the certificates of election from the most recent association meeting shall be provided to any owner upon the owner's request[;]; provided that the owner pays a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.

(d) The managing agent shall provide copies of association records maintained pursuant to this section and sections 514B-152 and 514B-153 to owners, prospective purchasers and their prospective agents during normal business hours, upon payment to the managing agent of a reasonable charge to defray any administrative or duplicating costs. If the project is not managed by a managing agent, the foregoing requirements shall be undertaken by a person or entity, if any, employed by the association, to whom this function is delegated.

(e) Prior to the organization of the association, any unit owner shall be entitled to inspect as well as receive a copy of the management contract from the entity that manages the operation of the property.

(f) Owners may file a written request with the board to examine other documents. The board shall give written authorization or written refusal with an explanation of the refusal within thirty calendar days of receipt of the request.

(g) An association may comply with this part by making information available to unit owners, at the option of each unit owner and at no cost to the unit owner for downloading the information, through an [internet] Internet site.

(h) A managing agent retained by one or more associations may dispose of the records of any association which are more than five years old, except for tax records, which shall be kept for seven years, without liability if the managing agent first provides the board of the association affected with written notice of the managing agent's intent to dispose of the records if not retrieved by the board within sixty days, which notice shall include an itemized list of the records proposed to be disposed.

(i) No person shall knowingly make any false certificate, entry, or memorandum upon any of the books or records of any managing agent or association. No

person shall knowingly alter, destroy, mutilate, or conceal any books or records of a managing agent or association.

(j) Any fee charged to a member to obtain copies of association records under this section shall be reasonable; provided that a reasonable fee shall include administrative and duplicating costs and shall not exceed \$1 per page, or portion thereof, except the fee for pages exceeding eight and one-half inches by fourteen inches may exceed \$1 per page.

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

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

(Approved July 2, 2007.)

**ACT 242**

S.B. NO. 1654

A Bill for an Act Relating to Condominium Management Dispute Resolution.

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

SECTION 1. Hawaii’s recodified condominium law is contained in chapter 514B, Hawaii Revised Statutes (HRS). The applicability of that chapter to “existing condominiums” is set forth in section 514B-22, HRS, which provides that part VI of the chapter, entitled “Management of Existing Condominiums”, applies to all condominiums created before July 1, 2006, but:

- (1) *Shall apply only with respect to events and circumstances occurring on or after July 1, 2006; and*
- (2) *Shall not invalidate existing provisions of the declaration, bylaws, condominium map, or other constituent documents of those condominiums if to do so would invalidate the reserved rights of a developer or be an unreasonable impairment of contract.*

Chapter 514B, HRS, allows for the mediation of condominium disputes under section 514B-161, HRS, which is codified in part VI of the chapter. Therefore, the legislature finds that this section applies to condominiums created before July 1, 2006, unless the section would unreasonably impair a contract or invalidate rights that a developer reserved in the condominium documents.

An administrative hearing dispute resolution procedure for condominiums was established by Act 277, Session Laws of Hawaii 2006. The procedure will sunset on June 30, 2009, and was never codified in chapter 514B, HRS. Although the procedure would probably have been codified in part VI of chapter 514B, HRS, nothing in Act 277 specifically requires this. Therefore, it is not clear whether this hearing procedure applies to condominiums existing before July 1, 2006, pursuant to section 514B-22, HRS.

The purpose of this Act is to ensure that the mediation and administrative hearing dispute resolution procedures under section 514B-161, HRS, and Act 277, Session Laws of Hawaii 2006, apply and are available to:

- (1) Condominiums that were created before July 1, 2006; and
- (2) Cases that were pending before the department of commerce and consumer affairs office of administrative hearings under the pilot dispute resolution project established by Act 164, Session Laws of Hawaii 2004, when that project was repealed on June 30, 2006.

SECTION 2. Act 277, Session Laws of Hawaii 2006, is amended as follows:  
1. By amending the prefatory language of section 1 to read:

“SECTION 1. Chapter 514B, Hawaii Revised Statutes, is amended by adding a new section to part VI to be appropriately designated and to read as follows:”

SECTION 3. Cases that were pending before the office of administrative hearings of the department of commerce and consumer affairs as part of the condominium dispute resolution pilot project established by section 28 of Act 164, Session Laws of Hawaii 2004, on June 30, 2006, that may have been dismissed due to the repeal of section 28 of Act 164, Session Laws of Hawaii 2004, shall be reinstated, and regardless of whether they are based on events and circumstances occurring before July 1, 2006, may be resolved under Act 277, Session Laws of Hawaii 2006.

SECTION 4. New statutory material is underscored.

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

(Approved July 2, 2007.)

## ACT 243

S.B. NO. 920

A Bill for an Act Relating to Condominiums.

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

SECTION 1. The legislature finds that condominium managing agents have used condominium association membership lists without the consent or approval of the association’s board for purposes not intended and not specified in the laws of Hawaii and the association’s declarations and bylaws.

The purpose of this Act is to limit the managing agents’ use of membership lists to specific, enumerated purposes only.

SECTION 2. Section 514B-153, Hawaii Revised Statutes, is amended to read as follows:

“**[§514B-153]** **Association records; records to be maintained.** (a) An accurate copy of the declaration, bylaws, house rules, if any, master lease, if any, a sample original conveyance document, all public reports and any amendments thereto, shall be kept at the managing agent’s office.

(b) The managing agent or board shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. The managing agent or board shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses.

(c) Subject to section 514B-152, all records and the vouchers authorizing the payments and statements shall be kept and maintained at the address of the project, or elsewhere within the State as determined by the board.

(d) The developer or affiliate of the developer, board, and managing agent shall ensure that there is a written contract for managing the operation of the

property, expressing the agreements of all parties, including but not limited to financial and accounting obligations, services provided, and any compensation arrangements, including any subsequent amendments. Copies of the executed contract and any amendments shall be provided to all parties to the contract.

(e) The managing agent [øø], resident manager, or board shall keep an accurate and current list of members of the association and their current addresses, and the names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board, and a copy shall be available, at cost, to any member of the association as provided in the declaration or bylaws or rules and regulations or, in any case, to any member who furnishes to the managing agent or resident manager or the board a duly executed and acknowledged affidavit stating that the list:

- (1) Will be used by [søeh] the owner personally and only for the purpose of soliciting votes or proxies, or for providing information to other owners with respect to association matters; and
- (2) Shall not be used by the owner or furnished to anyone else for any other purpose.

A board may prohibit commercial solicitations.

(f) The managing agent or resident manager shall not use or distribute any membership list, including for commercial or political purposes, without the prior written consent of the board.

(g) All membership lists are the property of the association and any membership lists contained in the managing agent's or resident manager's records are subject to subsections (e) and (f), and this subsection. A managing agent, resident manager, or board may not use the information contained in the lists to create any separate list for the purpose of evading this section.

(h) Subsections (f) and (g) shall not apply to any time share plan regulated under chapter 514E."

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

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

(Approved July 2, 2007.)

**ACT 244**

S.B. NO. 1704

A Bill for an Act Relating to Condominiums.

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

SECTION 1. The recodified condominium law is the result of Act 164, Session Laws of Hawaii 2004, Act 93, Session Laws of Hawaii 2005, and Act 273, Session Laws of Hawaii 2006. The administration of the recodified condominium law has brought up a number of issues that require some housekeeping amendments. The purpose of this Act is to make necessary technical and conforming amendments to relevant statutory provisions.

SECTION 2. Chapter 514A, Hawaii Revised Statutes, is amended by adding three new parts, to be appropriately inserted and to read as follows:

## “PART I. GENERAL PROVISIONS AND DEFINITIONS

**§514A-1 Title.** This chapter shall be known as the Condominium Property Act.

**§514A-1.5 Applicability of chapter.** (a) This chapter:

- (1) Shall not apply to condominiums created on or after July 1, 2006, or that are registered with the commission pursuant to part IV of chapter 514B; and
- (2) On and after July 1, 2006, shall apply only to:
  - (A) Condominiums created prior to July 1, 2006, except as provided in subsection (b) and sections 514B-22 and 514B-23; and
  - (B) A developer’s sale of condominiums in a project for which a notice of intention was filed with the commission prior to July 1, 2006, pursuant to section 514A-31, except where the developer elects to register an existing project with the commission under part IV of chapter 514B, pursuant to section 9(b) of Act 93, Session Laws of Hawaii 2005.

(b) This chapter shall not apply to any condominium project or association of apartment owners created prior to May 29, 1963, pursuant to Act 180, Session Laws of Hawaii 1961, unless all of the owners and holders of liens affecting any of the apartments in the project have expressly declared that this chapter shall apply to the property, and shall govern the rights, interests, and remedies of all persons owning interests in or liens upon the property; provided that any condominium project or association of apartment owners created prior to May 29, 1963, pursuant to Act 180, Session Laws of Hawaii 1961, having seven or more apartments shall register with the commission and comply with the requirements pursuant to sections 514A-95.1 and 514A-132, except for the fidelity bond requirement. The express declaration shall be made through the execution and recordation of a declaration in form and content required to establish a condominium property regime pursuant to this chapter.

**§514A-1.6 Conformance with county land use ordinances.** Any condominium property regime established under this chapter shall conform to the existing underlying county zoning for the property and all applicable county permitting requirements adopted by the county in which the property is located, including any supplemental rules adopted by the county, pursuant to section 514A-45, to ensure the conformance of condominium property regimes to the purposes and provisions of county zoning and development ordinances and chapter 205. In the case of a property which includes one or more existing structures being converted to condominium status, the condominium property regime shall comply with section 514A-11(13) or 514A-40(b).

**§514A-2 Chapter not exclusive.** This chapter is in addition and supplemental to all other provisions of the Hawaii Revised Statutes; provided that this chapter shall not change the substantive law relating to land court property; and provided further that if this chapter conflicts with chapters 501 and 502, chapters 501 and 502 shall prevail.

**§514A-3 Definitions.** Unless it is plainly evident from the context that a different meaning is intended, as used herein:

“Apartment” means a part of the property intended for any type of use or uses, and with an exit to a public street or highway or to a common element or

elements leading to a public street or highway, and may include such appurtenances as garage and other parking space, storage room, balcony, terrace, and patio.

“Apartment owner” means the person owning, or the persons owning jointly or in common, an apartment and the common interest appertaining thereto; provided that to such extent and for such purposes, including the exercise of voting rights, as shall be provided by lease registered under chapter 501 or recorded under chapter 502, a lessee of an apartment shall be deemed to be the owner thereof.

“Association of apartment owners” means all of the apartment owners acting as a group in accordance with the bylaws and declaration.

“Commission” means the real estate commission of the state department of commerce and consumer affairs.

“Common elements”, unless otherwise provided in the declaration, means and includes:

- (1) The land included in the condominium property regime, whether leased or in fee simple;
- (2) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building or buildings;
- (3) The basements, flat roofs, yards, gardens, recreational facilities, parking areas, and storage spaces;
- (4) The premises for the lodging or use of janitors and other persons employed for the operation of the property;
- (5) Central and appurtenant installations for services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerators;
- (6) The elevators, escalators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;
- (7) Such facilities as may be designated as common elements in the declaration; and
- (8) All other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

“Common expense” means and includes:

- (1) Expenses of operation of the property; and
- (2) All sums designated common expenses by or pursuant to this chapter, the declaration or the bylaws.

“Common interest” means the percentage of undivided interest in the common elements appertaining to each apartment, as expressed in the declaration, and any specified percentage of the common interests means such percentage of the undivided interests in the aggregate.

“Common profits” means the balance of all income, rents, profits, and revenues from the common elements remaining after the deduction of the common expenses.

“Completion of construction” means the issuance by the appropriate county official of a certificate of completion.

“Condominium” means the ownership of single units, with common elements, located on property within the condominium property regime.

“Declaration” means the instrument by which the property is submitted to this chapter, as hereinafter provided, and such declaration as from time to time amended.

“Developer” means a person who undertakes to develop a real estate condominium project.

“Limited common elements” means and includes those common elements designated in the declaration as reserved for the use of a certain apartment or certain

apartments to the exclusion of the other apartments; provided that no amendment of the declaration affecting any of the limited common elements shall be effective without the consent of the owner or owners of the apartment or apartments for the use of which such limited common elements are reserved.

“Majority” or “majority of apartment owners” means the owners of apartments to which are appurtenant more than fifty per cent of the common interests, and any specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.

“Managing agent” means any person employed or retained for the purposes of managing the operation of the property.

“Master deed” or “master lease” means any deed or lease showing the extent of the interest of the person submitting the property to the condominium property regime.

“Operation of the property” means and includes the administration, fiscal management and operation of the property and the maintenance, repair, and replacement of, and the making of any additions and improvements to, the common elements.

“Person” means an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof.

“Project” means:

- (1) A real estate condominium project; and
- (2) A plan or project whereby a condominium of two or more apartments located within the condominium property regime are offered or proposed to be offered for sale.

“Property” means and includes the land, whether or not contiguous and including more than one parcel of land, but located within the same vicinity, whether leasehold or in fee simple, to the extent of the interest held therein by the owner or lessee submitting such interest to the condominium property regime, the building or buildings, all improvements and all structures thereon, and all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be submitted to the regime established by this chapter.

“To record” means to record in accordance with chapter 502, or to register in accordance with chapter 501.

All pronouns used herein include the male, female, and neuter genders and include the singular or plural numbers, as the case may be.

**§514A-4 Status of apartments.** Each apartment, together with the common interest appertaining thereto, shall for all purposes constitute real property and may be individually conveyed, leased, or encumbered and be the subject of ownership, possession, or sale and for all other purposes be treated as if it were sole and entirely independent of the other apartment or apartments in the property of which it forms a part, and the corresponding individual titles and interests shall be recordable.

**§514A-5 Ownership of apartments.** The apartment owner is entitled to the exclusive ownership and possession of the apartment. Any apartment may be jointly or commonly owned by more than one person.

**§514A-6 Separate taxation.** The laws relating to home exemptions from state property taxes are applicable to the individual apartments, which shall have the benefit of home exemption in those cases where the owner of single-family dwelling would qualify. Property taxes assessed by a county shall be assessed on and collected on the individual apartments and not on the property as a whole. Without limitation of the foregoing, each apartment and the common interest appertaining

thereto shall be deemed to be a parcel and shall be subject to separate assessment and taxation for all types of taxes authorized by law, including, but not limited to, special assessments.

**§514A-7 Condominium specialist; appointment; duties.** There are established two permanent condominium specialist positions within the department of commerce and consumer affairs to assist consumers with information, advice, and referral on any matter relating to this chapter or otherwise concerning condominium property regimes. There is also established a permanent secretarial position to provide assistance in carrying out these duties. The condominium specialists and secretary shall be appointed by the director of commerce and consumer affairs without regard to chapter 76. The condominium specialists and secretary shall be members of the employees retirement system of the State and shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State.

## PART V. CONDOMINIUM MANAGEMENT

**§514A-81 Bylaws.** The operation of the property shall be governed by bylaws, a true copy of which shall be recorded in the same manner as the declaration. No amendment to the bylaws is valid unless the amendment is duly recorded.

**§514A-82 Contents of bylaws.** (a) The bylaws shall provide for at least the following:

- (1) Board of directors:
  - (A) The election of a board of directors;
  - (B) The number of persons constituting the board; provided that condominiums with more than one hundred individual apartment units shall have an elected board of not less than nine members unless not less than sixty-five per cent of all apartment owners vote by mail ballot, or at a special or annual meeting, to reduce the minimum number of directors;
  - (C) That for the initial term of office, directors shall serve for a term of three years or the term as specified by the bylaws or until their successors have been elected or appointed;
  - (D) The powers and duties of the board;
  - (E) The compensation, if any, of the directors; and
  - (F) Whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them;
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; what percentage, consistent with this chapter, is necessary to adopt decisions binding on all apartment owners and that votes allocated to any area that constitutes a common element under section 514A-13(h) shall not be cast at any association meeting, regardless of whether it is so designated in the declaration;
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners;
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded;

- (5) Election of a treasurer who shall keep the financial records and books of account;
  - (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges;
  - (7) Manner of collecting common expenses, expenses, costs, and fees recoverable by the association under section 514A-94, and any penalties and late charges;
  - (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements;
  - (9) Method of adopting and amending administrative rules governing the details of the operation and use of the common elements;
  - (10) The restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners;
  - (11) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request;
  - (12) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. There shall not be more than one representative on the board of directors from any one apartment;
  - (13) A director shall not cast any proxy vote at any board meeting, nor shall a director vote at any board meeting on any issue in which the director has a conflict of interest;
  - (14) No resident manager of a condominium shall serve on its board of directors;
  - (15) The board of directors shall meet at least once a year;
  - (16) All association and board of directors meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order;
  - (17) All meetings of the association of apartment owners shall be held at the address of the condominium project or elsewhere within the State as determined by the board of directors; and
  - (18) Penalties chargeable against persons for violation of the covenants, conditions, or restrictions set forth in the declaration, or of the bylaws and administrative rules adopted pursuant thereto, method of determination of violations, and manner of enforcing penalties, if any.
- (b) In addition to the requirements of subsection (a), the bylaws shall be consistent with the following provisions:
- (1) 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. The removal and replacement shall be by a vote of a majority of the apartment owners and, otherwise, in accordance with all applicable requirements and procedures in the bylaws for the removal and replacement of directors. If removal and replacement is to occur at a special association meeting, the call for 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; provided 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 in this section, 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:
  - (A) Each one of the particulars set forth in this subsection shall be embodied in the bylaws always; and
  - (B) 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, the proposal 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 three hundred sixty-five days after mailing for a proposed bylaw submitted by either the board of directors or a volunteer apartment owners' committee. If 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 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 paragraph 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:
  - (A) The date, time, and place of the meeting;
  - (B) The items on the agenda for the meeting; and
  - (C) 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 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. Any board of directors that intends to use association funds to distribute proxies, including the standard proxy form referred

to in paragraph (3), shall first post notice of its intent to distribute proxies in prominent locations within the project at least thirty days prior to its distribution 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) A proxy form containing the names of all owners who have requested the use of association funds for soliciting proxies accompanied by their statements; or
- (B) 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 shall 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 paragraph (10);
- (13) A lien created pursuant to section 514A-90 may be enforced by the association in any manner permitted by law, including nonjudicial or power of sale foreclosure procedures authorized by chapter 667; and

- (14) If the bylaws provide for cumulative voting by the owners, the owners may so vote if an owner gives notice of the owner's intent to cumulatively vote before voting commences.

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.

**§514A-82.1 Employees of condominiums; background check.** The board of directors of an association of apartment owners or the manager of a condominium project, upon the written authorization of an applicant for employment as security guard or manager or for a position which would allow the employee access to the keys of or entry into the units in the condominium project or access to association funds, may conduct a background check on the applicant or direct another responsible party to conduct the check. Before initiating or requesting a check, the board of directors or the manager shall first certify that the signature on the authorization is authentic and that the person is an applicant for such employment. The background check, at a minimum, shall require the applicant to disclose whether the applicant has been convicted in any jurisdiction of a crime which would tend to indicate that the applicant may be unsuited for employment as a condominium employee with access to association funds or the keys of or entry into the units in the condominium project, and the judgment of conviction has not been vacated. For the purpose of this section, the criminal history disclosure made by the applicant may be verified by the board of directors, manager, or other responsible party, if so directed by the board or the manager, by means of information obtained through the Hawaii criminal justice data center. The applicant shall provide the Hawaii criminal justice data center with personal identifying information which shall include but not be limited to the applicant's name, social security number, date of birth, and gender. This information shall be used only for the purpose of conducting the criminal history record check authorized by this section. Failure of an association of apartment owners or the manager to conduct or verify or cause to have conducted or verified a background check shall not alone give rise to any private cause of action against an association or manager for acts and omissions of the employee hired.

**§514A-82.15 Mixed use property; representation on the board of directors.** (a) The bylaws of an association of apartment owners may be amended to provide that the composition of the board reflect the proportionate number of apartments for a particular use, as set forth in the declaration. For example, an association of apartment owners may provide that for a nine-member board where two-thirds of the apartments are for residential use and one-third is for commercial use, sixty-six and two-thirds per cent of the nine-member board, or six members, shall be owners of residential use apartments and thirty-three and one-third per cent, or three members, shall be owners of commercial use apartments.

(b) Any proposed bylaws amendment to modify the composition of the board in accordance with subsection (a) may be initiated by:

- (1) A majority vote of the board of directors; or
- (2) A submission of the proposed bylaw amendment to the board of directors from a volunteer apartment owner's committee accompanied by a petition from twenty-five per cent of the apartment owners of record.

(c) Within thirty days of a decision by the board or receipt of a petition to initiate a bylaws amendment, the board of directors shall mail a ballot with the proposed bylaws amendment to all of the apartment owners of record. For purposes of this section only and notwithstanding section 514A-82(b)(2), the bylaws may be initially amended by a vote or written consent of the majority (at least fifty-one per

cent) of the apartment owners; and thereafter by sixty-five per cent of all apartment owners; provided that each of the requirements set forth in this section shall be embodied in the bylaws.

(d) The bylaws, as amended pursuant to this section, shall be recorded in the bureau of conveyances or filed in land court, as the case may be.

(e) Election of the new board of directors in accordance with an amendment adopted pursuant to this section shall be held within sixty days from the date the amended bylaws are recorded pursuant to subsection (d).

(f) As permitted in the bylaws or declaration, the vote of a commercial apartment owner shall be cast and counted only for the commercial seats available on the board of directors and the vote of a residential apartment owner shall be cast and counted only for the residential seats available on the board of directors.

(g) No petition for a bylaw amendment pursuant to subsection (b)(2) to modify the composition of the board shall be distributed to the apartment owners within one year of the distribution of a prior petition to modify the composition of the board pursuant to that subsection.

(h) This section shall not preclude the removal and replacement of any one or more members of the board pursuant to section 514A-82(b)(1). Any removal and replacement shall not affect the proportionate composition of the board as prescribed in the bylaws as amended pursuant to this section.

(i) This section shall be deemed incorporated into the bylaws of all properties subject to this chapter existing as of July 1, 1998, and thereafter.

**§514A-82.2 Restatement of declaration and bylaws.** (a) Notwithstanding any other provision of this chapter or of any other statute or instrument, an association of apartment owners may at any time restate the declaration of condominium property regime of the project or the bylaws of the association to set forth all amendments thereof by a resolution adopted by the board of directors.

(b) An association of apartment owners may at any time restate the declaration of condominium property regime of the project or the bylaws of the association to amend the declaration or bylaws as may be required to conform with the provisions of this chapter or of any other statute, ordinance, rule or regulation enacted by any governmental authority, by a resolution adopted by the board of directors, and the restated declaration or bylaws shall be as fully effective for all purposes as if adopted by the vote or written consent of the apartment owners; provided that any declaration of condominium property regime or bylaws restated pursuant to this subsection shall identify each portion so restated and shall contain a statement that those portions have been restated solely for purposes of information and convenience, identifying the statute, ordinance, rule, or regulation implemented by the amendment, and that in the event of any conflict, the restated declaration or bylaws shall be subordinate to the cited statute, ordinance, rule, or regulation.

(c) Upon the adoption of a resolution pursuant to subsection (a) or (b), the restated declaration of condominium property regime or bylaws shall set forth all of the operative provisions of the declaration of condominium property regime or bylaws, as amended, together with a statement that the restated declaration of condominium property regime or bylaws correctly sets forth without change the corresponding provisions of the declaration of condominium property regime or bylaws, as amended, and that the restated declaration of condominium property regime or bylaws supersedes the original declaration of condominium property regime or bylaws and all prior amendments thereto.

(d) The restated declaration of condominium property regime or bylaws shall be recorded in the manner provided in section 514A-11, 514A-82, or both, and upon recordation shall supersede the original declaration of condominium property regime or bylaws and all prior amendments thereto; provided that in the event of any

conflict, the restated declaration of condominium property regime or bylaws shall be subordinate to the original declaration of condominium property regime or bylaws and all prior amendments thereto.

**§514A-82.3 Borrowing of money.** Subject to any approval requirements and spending limits contained in the declaration or bylaws of the association of apartment owners, the board of directors may authorize the borrowing of money to be used by the association for the repair, replacement, maintenance, operation, or administration of the common elements of the project, or the making of any additions, alterations, and improvements thereto. The cost of such borrowing, including without limitation all principal, interest, commitment fees, and other expenses payable with respect to such borrowing, shall be a common expense of the project; provided that owners representing fifty per cent of the common interest and apartments give written consent to such borrowing, having been first notified of the purpose and use of the funds.

**§514A-82.4 Duty of directors.** Each director shall owe the association of apartment owners a fiduciary duty in the performance of the director's responsibilities.

**§514A-82.5 Pets in apartments.** (a) Whenever the bylaws do not forbid apartment owners from keeping animals as pets in their apartments, the bylaws shall not forbid the tenants of the apartment owners from keeping pets in the apartments rented or leased from the owners; provided that:

- (1) The apartment owner agrees in writing to allow the apartment owner's tenant to keep a pet in the apartment;
- (2) The tenants may keep only those types of pets which may be kept by apartment owners;
- (3) The bylaws may allow each owner or tenant to keep only one pet in the apartment;
- (4) The animals shall not include those described as pests under section 150A-2, or animals prohibited from importation under section 141-2, 150A-5, or 150A-6;
- (5) The bylaws may include reasonable restrictions or prohibitions against excessive noise or other problems caused by pets on the property; and
- (6) The bylaws may reasonably restrict or prohibit the running of pets at large in the common areas of the property.

(b) Any amendments to the bylaws pertaining to pet restrictions or prohibitions which exempt circumstances existing prior to the adoption of the amendments shall apply equally to apartment owners and tenants.

**§514A-82.6 Pets, replacement of subsequent to prohibition.** (a) Any apartment owner who keeps a pet in the owner's apartment pursuant to a provision in the bylaws which allows owners to keep pets or in the absence of any provision in the bylaws to the contrary may, upon the death of the animal, replace the animal with another and continue to do so for as long as the owner continues to reside in the owner's apartment or another apartment subject to the same bylaws.

(b) Any apartment owner who is keeping a pet pursuant to subsection (a) as of the effective date of an amendment to the bylaws which prohibits owners from keeping pets in their apartments shall not be subject to the prohibition but shall be entitled to keep the pet and acquire new pets as provided in subsection (a).

**§514A-83 Purchaser's right to vote.** The purchaser of an apartment pursuant to an agreement of sale recorded in the bureau of conveyances or land court shall

have all the rights of an apartment owner, including the right to vote; provided that the seller may retain the right to vote on matters substantially affecting the seller's security interest in the apartment, including but not limited to the right to vote on:

- (1) Any partition of all or part of the project;
- (2) The nature and amount of any insurance covering the project and the disposition of any proceeds thereof;
- (3) The manner in which any condemnation of the project shall be defended or settled and the disposition of any award or settlement in connection therewith;
- (4) The payment of any amount in excess of insurance or condemnation proceeds;
- (5) The construction of any additions or improvements, and any substantial repair or rebuilding of any portion of the project;
- (6) The special assessment of any expenses;
- (7) The acquisition of any apartment in the project;
- (8) Any amendment to the declaration of condominium property regime or bylaws;
- (9) Any removal of the project from the provisions of this chapter; and
- (10) Any other matter which would substantially affect the security interest of the seller.

**§514A-83.1 Board meetings.** (a) All meetings of the board of directors, other than executive sessions, shall be open to all members of the association, and association members who are not on the board of directors may participate in any deliberation or discussion, other than executive sessions, unless a majority of a quorum of the board of directors votes otherwise.

(b) The board of directors, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters or litigation in which the association is or may become involved. The nature of any and all business to be considered in executive session shall first be announced in open session.

**§514A-83.2 Proxies.** (a) A proxy, to be valid, shall:

- (1) Be delivered to the secretary of the association of apartment owners or the managing agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains;
- (2) Contain at least the name of the association of apartment owners, the date of the meeting of the association of apartment owners, the printed names and signatures of the persons giving the proxy, the apartments for which the proxy is given, and the date that the proxy is given; and
- (3) Contain boxes wherein the owner has indicated that the proxy is given:
  - (A) For quorum purposes only;
  - (B) To the individual whose name is printed on a line next to this box;
  - (C) To the board of directors as a whole and that the vote be made on the basis of the preference of the majority of the board; or
  - (D) To those directors present at the meeting and the vote to be shared with each board member receiving an equal percentage.

(b) A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy, and may be limited as the apartment owner desires and indicates; provided that no proxy shall be irrevocable unless coupled with a financial interest in the unit.

(c) No board of directors or member of the board shall use association funds to solicit proxies except for the distribution of proxies as set forth in section

514A-82(b)(4); provided that this shall not prevent an individual member of the board from soliciting proxies as an apartment owner under section 514-82(b)(4)<sup>1</sup>.

(d) A copy, facsimile telecommunication, or other reliable reproduction of a proxy may be used in lieu of the original proxy for any and all purposes for which the original proxy could be used; provided that any copy, facsimile telecommunication, or other reproduction shall be a complete reproduction of the entire original proxy.

(e) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment.

**§514A-83.3 Membership list.** The resident manager or managing agent or board of directors shall keep an accurate and current list of members of the association of apartment owners and their current addresses and the names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors and a copy shall be available, at cost, to any member of the association as provided in the declaration or bylaws or rules and regulations or, in any case, to any member who furnishes to the resident manager or managing agent or board of directors a duly executed and acknowledged affidavit stating that the list:

- (1) Shall be used by such owner personally and only for the purpose of soliciting votes or proxies or providing information to other owners with respect to association matters, and
- (2) Shall not be used by such owner or furnished to anyone else for any other purpose.

No board of directors shall adopt any rule prohibiting the solicitation of proxies or distribution of materials relating to association matters on the common elements by apartment owners; provided that a board of directors may adopt rules regulating reasonable time, place, and manner of such solicitations or distributions, or both. A board of directors may prohibit commercial solicitations.

**§514A-83.4 Meeting minutes.** (a) Minutes of meetings of the board of directors and association of apartment owners shall include the recorded vote of each board member on all motions except motions voted on in executive session.

(b) Minutes of meetings of the board of directors and association of apartment owners shall be approved at the next succeeding meeting; provided that for board of directors meetings, no later than the second succeeding meeting.

(c) Minutes of all meetings shall be available within seven calendar days after approval and unapproved final drafts of the minutes of a meeting shall be available within sixty days after the meeting; provided that the minutes of any executive session may be withheld if their publication would defeat the lawful purpose of the executive session.

**§514A-83.5 Documents of the association of apartment owners.** (a) The association's most current financial statement shall be available to any owner at no cost or on twenty-four-hour loan, at a convenient location designated by the board of directors. The meeting minutes of the board of directors, once approved, for the current and prior year shall either:

- (1) Be available for examination by apartment owners at no cost or on twenty-four-hour loan at a convenient location at the project, to be determined by the board of directors; or
- (2) Be transmitted to any apartment owner making a request for the minutes, by the board of directors, the managing agent, or the association's representative, within fifteen days of receipt of the request;

provided that the minutes shall be transmitted by mail, electronic mail transmission, or facsimile, by the means indicated by the owner, if the owner indicated a preference at the time of the request; and provided further that the owner shall pay a reasonable fee for administrative costs associated with handling the request.

Costs incurred by apartment owners pursuant to this subsection shall be subject to section 514A-92.5.

(b) Minutes of board meetings shall include the recorded vote of each board member on all motions except motions voted on in executive session.

(c) Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices of the association of apartment owners for the duration those records are kept by the association and delinquencies of ninety days or more shall be available for examination by apartment owners at convenient hours at a place designated by the board; provided that:

(1) The board may require owners to furnish to the association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interests of the association, or its members, or both; and

(2) Owners pay for administrative costs in excess of eight hours per year. Copies of these items shall be provided to any owner upon the owner's request; provided that the owner pays a reasonable fee for duplication, postage, stationery, and other administrative costs associated with handling the request.

(d) Owners shall also be permitted to view proxies, tally sheets, ballots, owners' check-in lists, and the certificate of election for a period of thirty days following any association meeting; provided:

(1) That the board may require owners to furnish to the association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interest of the association or its members or both; and

(2) That owners pay for administrative costs in excess of eight hours per year.

Proxies and ballots may be destroyed following the thirty-day period. Copies of tally sheets, owners' check-in lists, and the certificates of election from the most recent association meeting shall be provided to any owner upon the owner's request; provided that the owner pay a reasonable fee for duplicating, postage, stationery, and other administrative costs associated with handling the request.

(e) Owners may file a written request with the board to examine other documents. The board shall give written authorization or written refusal with an explanation of the refusal within thirty calendar days of receipt of the request.

**§514A-83.6 Associations of apartment owners; budgets and reserves.** (a)

The board of directors of each association of apartment owners shall prepare and adopt an annual operating budget and distribute it to the apartment owners. At a minimum, the budget shall include the following:

- (1) The estimated revenues and operating expenses of the association;
- (2) Information as to whether the budget has been prepared on a cash or accrual basis;
- (3) The total replacement reserves of the association as of the date of the budget;
- (4) The estimated replacement reserves the association will require to maintain the property based on a reserve study performed by the association;

- (5) A general explanation of how the estimated replacement reserves are computed;
- (6) The amount the association must collect for the fiscal year to fund the estimated replacement reserves; and
- (7) Information as to whether the amount the association must collect for the fiscal year to fund the estimated replacement reserves was calculated using a per cent funded or cash flow plan. The method or plan shall not circumvent the estimated replacement reserves amount determined by the reserve study pursuant to paragraph (4).

(b) The association shall assess the apartment owners to either fund a minimum of fifty per cent of the estimated replacement reserves or fund one hundred per cent of the estimated replacement reserves when using a cash flow plan; provided that a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting. For each fiscal year, the association shall collect the amount assessed to fund the estimated replacement for that fiscal year reserves, as determined by the association's plan, except:

- (1) The commission shall adopt rules to permit an existing association to fund its estimated replacement reserves in increments after January 1, 1993, and prior to January 1, 2000; and
- (2) The commission shall adopt rules to permit an association to fund in increments, over three years, estimated replacement reserves that have been substantially depleted by an emergency.

(c) The association shall compute the estimated replacement reserves by a formula which is based on the estimated life and the estimated capital expenditure or major maintenance required for each part of the property. The estimated replacement reserves shall include:

- (1) Adjustments for revenues which will be received and expenditures which will be made before the beginning of the fiscal year to which the budget relates; and
- (2) Separate, designated reserves for each part of the property for which capital expenditures or major maintenance will exceed \$10,000. Parts of the property for which capital expenditures or major maintenance will not exceed \$10,000 may be aggregated in a single designated reserve.

(d) No association or apartment owner, director, officer, managing agent, or employee of an association who makes a good faith effort to calculate the estimated replacement reserves for an association shall be liable if the estimate subsequently proves incorrect.

(e) The commission may request a copy of the annual operating budget of the association of apartment owners as part of the association's registration with the commission under section 514A-95.1.

(f) A board may not exceed its total adopted annual operating budget by more than twenty per cent during the fiscal year to which the budget relates, except in emergency situations. Prior to the imposition or collection of an assessment under this paragraph, the board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

(g) The requirements of this section shall override any requirements in an association's declaration, bylaws, or any other association documents relating to preparation of budgets, calculation of reserve requirements, assessment and funding of reserves, with the exception of:

- (1) Any provisions relating to the repair and maintenance of property;

- (2) Any requirements in an association's declaration, bylaws, or any other association documents which require the association to collect more than fifty per cent of reserve requirements; or
- (3) Any provisions relating to upgrading the common elements, such as additions, improvements, and alterations to the common elements.

(h) Subject to the procedures of section 514A-94 and any rules adopted by the commission, any apartment owner whose association board fails to comply with this section may enforce compliance by the board. In any proceeding to enforce compliance, a board which has not prepared an annual operating budget and reserve study shall have the burden of proving it has complied with this section.

(i) The commission may adopt rules to implement this section.

(j) As used in this section:

"Capital expenditure" means an expense that results from the purchase or replacement of an asset whose life is greater than one year, or the addition of an asset that extends the life of an existing asset for a period greater than one year.

"Cash flow plan" means a minimum twenty-year projection of an association's future income and expense requirements to fund fully its replacement reserves requirements each year during that twenty-year period, except in an emergency; provided that it shall not include a projection of special assessments or loans during that twenty-year period, except in an emergency.

"Emergency situation" means any extraordinary expenses:

- (1) Required by an order of a court;
- (2) Necessary to repair or maintain any part of the property for which the association is responsible where a threat to personal safety on the property is discovered;
- (3) Necessary to repair any part of the property for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the annual operating budget;
- (4) Necessary to respond to any legal or administrative proceeding brought against the association that could not have been reasonably foreseen by the board in preparing and distributing the annual operating budget; or
- (5) Necessary for the association to obtain adequate insurance for the property which the association must insure.

"Major maintenance" means an expenditure for maintenance or repair that will result in extending the life of an asset for a period greater than one year.

"Replacement reserves" means funds for the upkeep, repair, or replacement of those parts of the property, including but not limited to roofs, walls, decks, paving, and equipment, that the association is obligated to maintain.

**§514A-84 Management and contracts; developer, managing agent, and association of apartment owners.** (a) If the developer or any affiliate of the developer acts as the first managing agent for the association of apartment owners following its organization, the contract shall not have a term exceeding one year and shall contain a provision that the contract may be terminated by either party thereto on not more than sixty days' written notice. The identity of the managing agent as the developer or the developer's affiliate shall be disclosed to the association of apartment owners no later than the first meeting of the association of apartment owners, which is when the association of apartment owners is organized. An affiliate of, or person affiliated with, a developer is a person that directly or indirectly controls, is controlled by, or is under common control with, the developer.

(b) Any developer or affiliate of the developer or a managing agent, who manages the operation of the property from the date of recordation of the first apartment conveyance until the organization of the association of apartment owners, shall comply with the requirements of sections 514A-95.1, 514A-97, and 514A-132,

with the exception of the fidelity bond requirement for the association of apartment owners.

(c) The developer, affiliate of the developer, managing agent, and the association of apartment owners shall ensure that there is a written contract for managing the operation of the property, expressing the agreements of all parties, including but not limited to financial and accounting obligations, services provided, and any compensation arrangements, including any subsequent amendments. Copies of the executed contract and any amendments shall be provided to all parties to the contract. Prior to the organization of the association of apartment owners, any apartment owner may request to inspect as well as receive a copy of the management contract from the entity that manages the operation of the property.

**§514A-84.5 Availability of project documents.** An accurate copy of the declaration of condominium property regime, the bylaws of the association of apartment owners, the house rules, if any, the master lease, if any, a sample original conveyance document, all public reports and any amendments thereto, shall be kept at the managing agent's office. The managing agent shall provide copies of those documents to owners, prospective purchasers and their prospective agents during normal business hours, upon payment to the managing agent of a reasonable charge to defray any administrative or duplicating costs. In the event that the project is not managed by a managing agent, the foregoing requirements shall be undertaken by a person or entity, if any, employed by the association of apartment owners, to whom this function is delegated.

**§514A-85 Records; examination; disposal.** (a) The managing agent or board of directors shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. The managing agent or board of directors shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses.

(b) All records and the vouchers authorizing the payments and statements shall be kept and maintained at the address of the project, or elsewhere within the State as determined by the board of directors.

(c) A managing agent employed or retained by one or more condominium associations may dispose of the records of any condominium association which are more than five years old without liability if the managing agent first provides the board of directors of the condominium association affected with written notice of the managing agent's intent to dispose of the records if not retrieved by the board of directors within sixty days, which notice shall include an itemized list of the records which the managing agent intends to dispose of.

(d) No person shall knowingly make any false certificate, entry, or memorandum upon any of the books or records of any managing agent or association. No person shall knowingly alter, destroy, mutilate, or conceal any books or records of a managing agent or association.

**§514A-86 Insurance.** (a) The association of apartment owners shall purchase and at all times maintain insurance which covers the common elements and, whether or not part of the common elements, all exterior and interior walls, floors, and ceilings, in accordance with the as-built condominium plans and specifications, against loss or damage by fire sufficient to provide for the repair or replacement thereof in the event of such loss or damages. Flood insurance shall also be maintained if the property is located in a special flood hazard area as delineated on flood maps issued by the Federal Emergency Management Agency. The flood

insurance policy shall comply with the requirements of the National Flood Insurance Program and the Federal Insurance Administration. Exterior glass may be insured at the option of the association of apartment owners. The insurance coverage shall be written on the property in the name of the association of apartment owners. Premiums shall be common expenses. Provision for the insurance shall be without prejudice to the right of each apartment owner to insure the owner's own apartment for the owner's benefit.

(b) The association of apartment owners may purchase and maintain directors' and officers' liability insurance with minimum coverage in such amount as shall be determined by the board of directors. Premiums shall be common expenses.

(c) Any insurance policy providing the coverage required by subsections (a) and (b) shall contain a provision requiring the insurance carrier, at the inception of the policy and on each anniversary date thereof, to provide the board of directors with a written summary, in layperson's terms, of the policy. The summary shall include the type of policy, a description of the coverage and the limits thereof, amount of annual premium, and renewal dates. The board of directors shall provide this information to each apartment owner.

**§514A-87 Personal application.** (a) All apartment owners, tenants of such owners, employees of owners and tenants, or any other persons that may in any manner use property or any part thereof submitted to this chapter are subject to this chapter and to the declaration and bylaws of the association of apartment owners adopted pursuant to this chapter.

(b) All agreements, decisions, and determinations lawfully made by the association of apartment owners in accordance with the voting percentages established in this chapter, the declaration, or the bylaws are binding on all apartment owners.

**§514A-88 Compliance with covenants, bylaws, and administrative provisions.** Each apartment owner, tenants and employees of an owner, and other persons using the property shall comply strictly with the bylaws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in the declaration. Failure to comply with any of the same shall be ground for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the manager or board of directors on behalf of the association of apartment owners or, in a proper case, by an aggrieved apartment owner.

**§514A-89 Certain work prohibited.** (a) No apartment owner shall do any work that could jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement or hereditament.

(b) No apartment owner shall add any material structure or excavate any additional basement or cellar, without first obtaining in every such case the consent of seventy-five per cent of the apartment owners, together with the consent of all apartment owners whose apartments or limited common elements appurtenant thereto are directly affected.

(c) Nonmaterial structural additions to the common elements, including without limitation additions to or alterations of an apartment made within the apartment or within a limited common element appurtenant to and for the exclusive use of the apartment shall require approval only by the board of directors of the association of apartment owners and such percentage, number, or group of apartment owners as may be required by the declaration or bylaws; provided that the installation of solar energy devices shall be allowed on single-family residential dwellings or townhouses pursuant to the provisions in section 196-7.

As used in this section:

“Nonmaterial structural additions to the common elements”, means a structural addition to the common elements that does not jeopardize the soundness or safety of the property, reduce the value thereof, impair any easement or hereditament, detract from the appearance of the project, interfere with or deprive any nonconsenting owner of the use or enjoyment of any part of property, or directly affect any nonconsenting owner.

“Solar energy device” means any new identifiable facility, equipment, apparatus, or the like which makes use of solar energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for its generation; provided that if the equipment sold cannot be used as a solar device without its incorporation with other equipment, it shall be installed in place and ready to be made operational to qualify as a “solar energy device”; and provided further that “solar energy device” shall not include skylights or windows.

“Townhouse” means a series of individual houses having architectural unity and a common wall between each unit; provided that each unit extends from the ground to the roof.

**§514A-90 Priority of lien.** (a) All sums assessed by the association of apartment owners but unpaid for the share of the common expenses chargeable to any apartment constitute a lien on the apartment prior to all other liens, except:

- (1) Liens for taxes and assessments lawfully imposed by governmental authority against the apartment; and
- (2) All sums unpaid on any mortgage of record that was recorded prior to the recordation of notice of a lien by the association of apartment owners, and costs and expenses including attorneys’ fees provided in such mortgages.

The lien of the association of apartment owners may be foreclosed by action or by non-judicial or power of sale foreclosure procedures set forth in chapter 667, by the managing agent or board of directors, acting on behalf of the association of apartment owners, in like manner as a mortgage of real property. In any such foreclosure the apartment owner shall be required to pay a reasonable rental for the apartment, if so provided in the bylaws, and the plaintiff in the foreclosure shall be entitled to the appointment of a receiver to collect the rental owed. The managing agent or board of directors, acting on behalf of the association of apartment owners, unless prohibited by the declaration, may bid on the apartment at foreclosure sale, and acquire and hold, lease, mortgage, and convey the apartment. Action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the unpaid common expenses owed.

(b) Except as provided in subsection (g), when the mortgagee of a mortgage of record or other purchaser of an apartment obtains title to the apartment as a result of foreclosure of the mortgage, the acquirer of title and the acquirer’s successors and assigns shall not be liable for the share of the common expenses or assessments by the association of apartment owners chargeable to the apartment which became due prior to the acquisition of title to the apartment by the acquirer. The unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the apartment owners, including the acquirer and the acquirer’s successors and assigns. The mortgagee of record or other purchaser of the apartment shall be deemed to acquire title and shall be required to pay the apartment’s share of common expenses and assessments beginning:

- (1) Thirty-six days after the order confirming the sale to the purchaser has been filed with the court;
- (2) Sixty days after the hearing at which the court grants the motion to confirm the sale to the purchaser;

(3) Thirty days after the public sale in a nonjudicial power of sale foreclosure pursuant to section 667-5; or

(4) Upon the recording of the instrument of conveyance, whichever occurs first; provided that the mortgagee of record or other purchaser of the apartment shall not be deemed to acquire title under paragraph (1), (2), or (3), if transfer of title is delayed past the thirty-six days specified in paragraph (1), the sixty days specified in paragraph (2), or the thirty days specified in paragraph (3), when a person who appears at the hearing on the motion or a party to the foreclosure action requests reconsideration of the motion or order to confirm sale, objects to the form of the proposed order to confirm sale, appeals the decision of the court to grant the motion to confirm sale, or the debtor or mortgagor declares bankruptcy or is involuntarily placed into bankruptcy. In any such case, the mortgagee of record or other purchaser of the apartment shall be deemed to acquire title upon recordation of the instrument of conveyance.

(c) No apartment owner shall withhold any assessment claimed by the association. An apartment owner who disputes the amount of an assessment may request a written statement clearly indicating:

- (1) The amount of common expenses included in the assessment, including the due date of each amount claimed;
- (2) The amount of any penalty, late fee, lien filing fee, and any other charge included in the assessment;
- (3) The amount of attorneys' fees and costs, if any, included in the assessment;
- (4) That under Hawaii law, an apartment owner has no right to withhold assessments for any reason;
- (5) That an apartment owner has a right to demand mediation or arbitration to resolve disputes about the amount or validity of an association's assessment; provided the apartment owner immediately pays the assessment in full and keeps assessments current; and
- (6) That payment in full of the assessment shall not prevent the owner from contesting the assessment or receiving a refund of amounts not owed.

Nothing in this section shall limit the rights of an owner to the protection of all fair debt collection procedures mandated under federal and state law.

(d) An apartment owner who pays an association the full amount claimed by the association may file in small claims court or require the association to mediate to resolve any disputes concerning the amount or validity of the association's claim. If the apartment owner and the association are unable to resolve the dispute through mediation, either party may file for arbitration under part VII; provided that an apartment owner may only file for arbitration if all amounts claimed by the association are paid in full on or before the date of filing. If the apartment owner fails to keep all association assessments current during the arbitration, the association may ask the arbitrator to temporarily suspend the arbitration proceedings. If the apartment owner pays all association assessments within thirty days of the date of suspension, the apartment owner may ask the arbitrator to recommence the arbitration proceedings. If the owner fails to pay all association assessments by the end of the thirty-day period, the association may ask the arbitrator to dismiss the arbitration proceedings. The apartment owner shall be entitled to a refund of any amounts paid to the association which are not owed.

(e) As an alternative to foreclosure proceedings under subsection (a), where an apartment is owner-occupied, the association of apartment owners may authorize its managing agent or board of directors to, after sixty days' written notice to the apartment owner and to the apartment's first mortgagee of the nonpayment of the apartment's share of the common expenses, terminate the delinquent apartment's access to the common elements and cease supplying a delinquent apartment with any

and all services normally supplied or paid for by the association of apartment owners. Any terminated services and privileges shall be restored upon payment of all delinquent assessments.

(f) Before the board of directors or managing agent may take the actions permitted under subsection (e), the board shall adopt a written policy providing for such actions and have the policy approved by a majority vote of the apartment owners at an annual or special meeting of the association or by the written consent of a majority of the apartment owners.

(g) Subject to this subsection, and subsections (h) and (i), the board of an association of apartment owners may specially assess the amount of the unpaid regular monthly common assessments for common area expenses against a person who, in a judicial or nonjudicial power of sale foreclosure, purchases a delinquent apartment; provided that:

- (1) A purchaser who holds a mortgage on a delinquent apartment that was recorded prior to the filing of a notice of lien by the association of apartment owners and who acquires the delinquent apartment through a judicial or nonjudicial foreclosure proceeding, including purchasing the delinquent apartment at a foreclosure auction, shall not be obligated to make, nor be liable for, payment of the special assessment as provided for under this subsection; and
- (2) A person who subsequently purchases the delinquent apartment from the mortgagee referred to in paragraph (1) shall be obligated to make, and shall be liable for, payment of the special assessment provided for under this subsection; provided that the mortgagee or subsequent purchaser may require the association of apartment owners to provide at no charge a notice of the association's intent to claim a lien against the delinquent apartment for the amount of the special assessment, prior to the subsequent purchaser's acquisition of title to the delinquent apartment. The notice shall state the amount of the special assessment, how that amount was calculated, and the legal description of the apartment.

(h) The amount of the special assessment assessed under subsection (g) shall not exceed the total amount of unpaid regular monthly common assessments that were assessed during the six months immediately preceding the completion of the judicial or nonjudicial power of sale foreclosure. In no event shall the amount of the special assessment exceed the sum of \$1,800.

(i) For purposes of subsections (g) and (h), the following definitions shall apply:

“Completion” means:

- (1) In a nonjudicial power of sale foreclosure, when the affidavit required under section 667-5 is filed; and
- (2) In a judicial foreclosure, when a purchaser is deemed to acquire title pursuant to subsection (b).

“Regular monthly common assessments” shall not include:

- (1) Any other special assessment, except for a special assessment imposed on all apartments as part of a budget adopted pursuant to section 514A-83.6;
- (2) Late charges, fines, or penalties;
- (3) Interest assessed by the association of apartment owners;
- (4) Any lien arising out of the assessment; or
- (5) Any fees or costs related to the collection or enforcement of the assessment, including attorneys' fees and court costs.

**§514A-90.5 Unpaid common expenses; collection from tenants.** (a) If the owner of an apartment rents or leases the apartment and is in default for thirty days

or more in the payment of the apartment's share of the common expenses, the board of directors, for as long as the default continues, may demand in writing and receive each month from any tenant occupying the apartment, an amount sufficient to pay all sums due from the apartment owner to the association, including interest, if any, but the amount shall not exceed the tenant's rent due each month. The tenant's payment under this section shall discharge that amount of payment from the tenant's rent obligation, and any contractual provision to the contrary shall be void as a matter of law.

(b) Prior to taking any action under this section, the board of directors shall give to the delinquent apartment owner written notice of its intent to collect the rent owed. The notice shall:

- (1) Be sent both by first-class and certified mail;
- (2) Set forth the exact amount the association claims is due and owing by the apartment owner; and
- (3) Indicate the intent of the board of directors to collect such amount from the rent, along with any other amounts that become due and remain unpaid.

(c) The apartment owner shall not take any retaliatory action against the tenant for payments made under this section.

(d) The payment of any portion of the apartment's share of common expenses by the tenant pursuant to a written demand by the board is a complete defense, to the extent of the amount demanded and paid by the tenant, in an action for nonpayment of rent brought by the apartment owner against a tenant.

(e) The board may not demand payment from the tenant pursuant to this section if:

- (1) A commissioner or receiver has been appointed to take charge of the premises pending a mortgage foreclosure;
- (2) A mortgagee is in possession pending a mortgage foreclosure; or
- (3) The tenant is served with a court order directing payment to a third party.

(f) In the event of any conflict between this section and any provision of chapter 521, the conflict shall be resolved in favor of this section; provided that if the tenant is entitled to an offset of rent under chapter 521, the tenant may deduct the offset from the amount due to the association, up to the limits stated in chapter 521. Nothing herein precludes the apartment owner or tenant from seeking equitable relief from a court of competent jurisdiction or seeking a judicial determination of the amount owed.

(g) Before the board of directors may take the actions permitted under subsection (a), the board shall adopt a written policy providing for the actions and have the policy approved by a majority vote of the apartment owners at an annual or special meeting of the association or by the written consent of a majority of the apartment owners.

**§514A-90.6 Lease rent renegotiation.** (a) Notwithstanding any provision in the declaration or bylaws of any property subject to this chapter, any lease or sublease of the property or of an apartment, or an undivided interest in the land to an apartment owner, whenever any lease or sublease of the property, an apartment, or an undivided interest in the land to an apartment owner provides for the periodic renegotiation of lease rent thereunder, the association of apartment owners shall represent the apartment owners in all negotiations and proceedings, including but not limited to appraisal or arbitration, for the determination of lease rent as a common expense of the association.

(b) If some, but not all of the apartment owners have purchased the leased fee interest appurtenant to their apartments, all costs and expenses of the renegotiation

shall be assessed to the remaining lessees in the same proportion that the common interest appurtenant to each lessee's apartment bears to the common interest appurtenant to all lessees' apartments. The unpaid amount of this assessment shall constitute a lien upon the lessee's apartment, which may be collected in accordance with sections 514A-90 and 514A-94 in the same manner as an unpaid common expense.

**§514A-91 Joint and several liability of grantor and grantee for unpaid common expenses.** In a voluntary conveyance the grantee of an apartment is jointly and severally liable with the grantor for all unpaid assessments against the latter for the grantor's share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantor or grantee is entitled to a statement from the manager or board of directors setting forth the amount of the unpaid assessments against the grantor, and except as to the amount of subsequently dishonored checks mentioned in such statement as having been received within the thirty-day period immediately preceding the date of such statement, the grantee is not liable for, nor is the apartment conveyed subject to a lien for, any unpaid assessments against the grantor in excess of the amount therein set forth.

**§514A-92 Waiver of use of common elements; abandonment of apartment; conveyance to board of directors.** No apartment owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his apartment. Subject to such terms and conditions as may be specified in the bylaws, any apartment owner may, by conveying his apartment and his common interest to the board of directors on behalf of all other apartment owners, exempt himself from common expenses thereafter accruing.

**§514A-92.1 Designation of additional areas.** Designation of additional areas to be common elements or subject to common expenses after the initial filing of the bylaws or declaration shall require the approval of ninety per cent of the apartment owners; provided that if the developer discloses to the initial buyer in writing that additional areas will be designated as common elements pursuant to an incremental or phased project, this requirement shall not apply as to those additional areas.

**§514A-92.2 Notification of maintenance fee increases.** The manager or board of directors shall notify the apartment owners in writing of maintenance fee increases at least thirty days prior to such an increase.

**§514A-92.5 Association of apartment owners; prior written notice of assessment of the cost of providing information.** No apartment owner who requests legal or other information from the association of apartment owners, the board of directors, the managing agent, or their employees or agents, shall be charged for the cost of providing the information unless the association notifies the apartment owner that it intends to charge the apartment owner for the cost. The association shall notify the apartment owner in writing at least ten days prior to incurring the cost of providing the information, except that no prior notice shall be required to assess the cost of providing information on delinquent assessments or in connection with proceedings to enforce the law or the association's governing documents.

After being notified of the cost of providing the information, the apartment owner may withdraw the request, in writing. An apartment owner who withdraws a request for information shall not be charged for the cost of providing the information.

**§514A-93 Actions.** Without limiting the rights of any apartment owner, actions may be brought by the manager or board of directors, in either case in the discretion of the board of directors on behalf of two or more of the apartment owners, as their respective interests may appear, with respect to any cause of action relating to the common elements or more than one apartment. Service of process on two or more apartment owners in any action relating to the common elements or more than one apartment may be made on the person designated in the declaration to receive service of process.

**§514A-93.5 Disposition of unclaimed possessions.** (a) When personalty in or on the common elements of a project has been abandoned, the board of directors may sell the personalty in a commercially reasonable manner, store such personalty at the expense of its owner, donate such personalty to a charitable organization, or otherwise dispose of such personalty in its sole discretion; provided that no such sale, storage, or donation shall occur until sixty days after the board complies with the following:

- (1) The board notifies the owner in writing of:
  - (A) The identity and location of the personalty; and
  - (B) The board of directors' intent to so sell, store, donate, or dispose of the personalty.

Notification shall be by certified mail, return receipt requested to the owner's address as shown by the records of the association or to an address designated by the owner for the purpose of notification or, if neither of these is available, to the owner's last known address, if any; or

- (2) If the identity or address of the owner is unknown, the board of directors shall first advertise the sale, donation, or disposition at least once in a daily paper of general circulation within the circuit in which the personalty is located.

(b) The proceeds of any sale of disposition of personalty under subsection (a) shall, after deduction of any accrued costs of mailing, advertising, storage, and sale, be held for the owner for thirty days. Any proceeds not claimed within this period shall become the property of the association of apartment owners.

**§514A-94 Attorneys' fees, delinquent assessments, and expenses of enforcement.** (a) All costs and expenses, including reasonable attorneys' fees, incurred by or on behalf of the association for:

- (1) Collecting any delinquent assessments against any owner's apartment;
- (2) Foreclosing any lien thereon; or
- (3) Enforcing any provision of the declaration, bylaws, house rules, and the Condominium Property Act; or the rules of the real estate commission;

against an owner, occupant, tenant, employee of an owner, or any other person who may in any manner use the property shall be promptly paid on demand to the association by such person or persons; provided that if the claims upon which the association takes any action are not substantiated, all costs and expenses, including reasonable attorneys' fees, incurred by any such person or persons as a result of the action of the association, shall be promptly paid on demand to such person or persons by the association.

(b) If any claim by an owner is substantiated in any action against an association, any of its officers or directors, or its board of directors to enforce any provision of the declaration, bylaws, house rules, or this chapter, then all reasonable and necessary expenses, costs, and attorneys' fees incurred by an owner shall be awarded to such owner; provided that no such award shall be made in any derivative action unless:

- (1) The owner first shall have demanded and allowed reasonable time for the board of directors to pursue such enforcement; or
- (2) The owner demonstrates to the satisfaction of the court that a demand for enforcement made to the board of directors would have been fruitless.

If any claim by an owner is not substantiated in any court action against an association, any of its officers or directors, or its board of directors to enforce any provision of the declaration, bylaws, house rules, or this chapter, then all reasonable and necessary expenses, costs, and attorneys' fees incurred by an association shall be awarded to the association, unless the action was filed in small claims court or prior to filing the action in a higher court the owner has first submitted the claim to mediation, or to arbitration under part VII of this chapter, and made a good faith effort to resolve the dispute under any of those procedures.

(c) Anyone contracted by the association of apartment owners to collect delinquent assessments against any owner's apartment shall not share in any portion of any penalties or late charges collected.

**§514A-95 Managing agents.** (a) Every managing agent shall:

- (1) Be licensed as a real estate broker in compliance with chapter 467 and the rules of the commission or be a corporation authorized to do business under article 8 of chapter 412;
- (2) Register with the commission prior to conducting managing agent activity through approval of a completed registration application, payment of fees, and submission of any other additional information set forth by the commission. The registration shall be for a biennial period with termination on December 31 of an even-numbered year. The commission shall prescribe a deadline date prior to the termination date for the submission of a completed reregistration application, payment of fees, and any other additional information set forth by the commission. Any managing agent who has not met the submission requirements by the deadline date shall be considered a new applicant for registration and subject to initial registration requirements. The information required to be submitted with any application shall include the name, business address, phone number, and names of association of apartment owners managed;
- (3) Obtain and keep current a fidelity bond in an amount equal to \$500 multiplied by the aggregate number of apartments of the association of apartment owners managed by the managing agent; provided that the amount of the fidelity bond shall not be less than \$20,000 nor greater than \$100,000. Upon request by the commission, the managing agent shall provide evidence of a current fidelity bond or a certification statement from an insurance company authorized by the insurance division of the department of commerce and consumer affairs certifying that the fidelity bond is in effect and meets the requirement of this section and the rules adopted by the commission. The managing agent shall permit only employees covered by the fidelity bond to handle or have custody or control of any association of apartment owners funds, except any principals of the managing agent that cannot be covered by the fidelity bond. The fidelity bond shall protect the managing agent against the loss of any association of apartment owners' moneys, securities, or other properties caused by the fraudulent or dishonest acts of employees of the managing agent. Failure to obtain or maintain a fidelity bond in compliance with this chapter and the rules adopted pursuant thereto, including failure to provide evidence of the

fidelity bond coverage in a timely manner to the commission, shall result in non-registration or the automatic termination of the registration, unless an approved exemption or a bond alternative is presently maintained. A managing agent who is unable to obtain a fidelity bond may seek an exemption from the fidelity bond requirement from the commission. The commission shall adopt rules establishing the conditions and terms by which it may grant an exemption or a bond alternative, or permit deductibles;

- (4) Act promptly and diligently to recover from the fidelity bond, if the fraud or dishonesty of the managing agent's employees causes a loss to an association of apartment owners, and apply the fidelity bond proceeds, if any, to reduce the association of apartment owners' loss. If more than one association of apartment owners suffers a loss, the managing agent shall divide the proceeds among the associations of apartment owners in proportion to each association of apartment owners' loss. An association of apartment owners may request a court order requiring the managing agent to act promptly and diligently to recover from the fidelity bond. If an association of apartment owners cannot recover its loss from the fidelity bond proceeds of the managing agent, the association of apartment owners may recover by court order from the real estate recovery fund established under section 467-16; provided that:
  - (A) The loss is caused by the fraud, misrepresentation, or deceit of the managing agent or its employees;
  - (B) The managing agent is a licensed real estate broker; and
  - (C) The association of apartment owners fulfills the requirements of sections 467-16 and 467-18 and any applicable rules of the commission;
- (5) Pay a nonrefundable application fee and, upon approval, an initial registration fee, and subsequently pay a reregistration fee, as prescribed by rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. A compliance resolution fee shall also be paid pursuant to section 26-9(o) and the rules adopted pursuant thereto; and
- (6) Report immediately in writing to the commission any changes to the information contained on the registration application or any other documents provided for registration. Failure to do so may result in termination of registration and subject the managing agent to initial registration requirements.
  - (b) The commission may deny any registration or reregistration application or terminate a registration without hearing if the fidelity bond and its evidence fail to meet the requirements of this chapter and the rules adopted pursuant thereto.
  - (c) Every managing agent shall be considered a fiduciary with respect to any property managed by that managing agent.
  - (d) The registration and fidelity bond requirements of this section shall not apply to active real estate brokers in compliance with and licensed under chapter 467.

**§514A-95.1 Association of apartment owners registration; fidelity bond.**

- (a) Each condominium project or association of apartment owners having six or more apartments shall:
  - (1) Secure a fidelity bond in an amount equal to \$500 multiplied by the number of apartments, to cover all officers, directors, employees, and managing agents of the association of apartment owners who handle, control, or have custody of the funds of the association of apartment

owners; provided that the amount of the fidelity bond required by this paragraph shall not be less than \$20,000 nor greater than \$100,000. The fidelity bond shall protect the association of apartment owners against fraudulent or dishonest acts by persons, including any managing agent, handling the funds of the association of apartment owners. An association of apartment owners shall act promptly and diligently to recover from the fidelity bond required by this section. An association of apartment owners that is unable to obtain a fidelity bond may seek approval for an exemption or a bond alternative from the commission. The commission shall adopt rules establishing the conditions and terms for which it may grant an exemption or a bond alternative, or permit deductibles. Failure to obtain or maintain a fidelity bond in compliance with this chapter and the rules adopted pursuant thereto, including failure to provide current evidence of the fidelity bond coverage in a timely manner to the commission, shall result in non-registration or the automatic termination of the registration, unless an approved exemption or a bond alternative is presently maintained. Current evidence of a fidelity bond includes a certification statement from an insurance company registered with the department of commerce and consumer affairs certifying that the bond is in effect and meets the requirement of this section and the rules adopted by the commission;

- (2) Register with the commission through approval of a completed registration application, payment of fees, and submission of any other additional information set forth by the commission. Beginning June 30, 1997, the registration shall be for a biennial period with termination on June 30 of an odd-numbered year. The commission shall prescribe a deadline date prior to the termination date for the submission of a completed reregistration application, payment of fees, and any other additional information set forth by the commission. Any condominium project or association of apartment owners that has not met the submission requirements by the deadline date shall be considered a new applicant for registration and subject to initial registration requirements. Any new condominium project or association of apartment owners shall register within thirty days of the association of apartment owners' first meeting. If the association of apartment owners has not held its first meeting and it is at least one year after the recordation of the purchase of the first apartment in the condominium project, the developer or developer's affiliate or the managing agent shall register on behalf of the unorganized association of apartment owners and shall comply with this section, except the fidelity bond requirement for association of apartment owners. The public information required to be submitted on any completed application form shall include but not be limited to evidence of and information on fidelity bond coverage, names and positions of the officers of the association, the name of the association of apartment owners' managing agent, if any, the street and the postal address of the condominium, and the name and current mailing address of a designated officer of the association of apartment owners where the officer can be contacted directly;
- (3) Pay a nonrefundable application fee and, upon approval, an initial registration fee and subsequently pay a reregistration fee, and the condominium management education fund fee, as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91;

- (4) Register or reregister and pay the required fees by the due date. Failure to register or reregister or pay the required fees by the due date shall result in the assessment of a penalty equal to the amount of the registration or reregistration fee; and
- (5) Report immediately in writing to the commission any changes to the information contained on the registration or reregistration application, the evidence of the fidelity bond, or any other documents set forth by the commission. Failure to do so may result in termination of registration and subject the condominium project or the association of apartment owners to initial registration requirements.

(b) The commission may reject or terminate any registration submitted by a condominium project or an association of apartment owners that fails to comply with this section. Any association of apartment owners that fails to register as required by this section or whose registration is rejected or terminated shall not have standing to maintain any action or proceeding in the courts of this State until it registers. The failure of an association of apartment owners to register, or rejection or termination of its registration, shall not impair the validity of any contract or act of the association of apartment owners nor prevent the association of apartment owners from defending any action or proceeding in any court in this State.

**§514A-96 Board of directors, audits, audited financial statement, transmittal.** (a) The association of apartment owners shall require an annual audit of the association financial accounts and no less than one annual unannounced verification of the association's cash balance by a public accountant; provided that if the association is comprised of less than twenty owners, the annual audit and the annual unannounced cash balance verification may be waived by a majority vote of all apartment owners taken at an association meeting.

(b) The board of directors of the association shall make available a copy of the annual audit to each apartment owner at least thirty days prior to the annual meeting which follows the end of the fiscal year. The board shall provide upon all official proxy forms a box wherein the owner may indicate that the owner wishes to obtain a copy of the annual audit report. The board shall not be required to submit a copy of the annual audit report to the owner if the proxy form is not marked. If the annual audit has not been completed by that date, the board shall make available:

- (1) An unaudited year end financial statement for the fiscal year to each apartment owner at least thirty days prior to the annual meeting; and
- (2) The annual audit to all owners at the annual meeting, or as soon as the audit is completed, whichever occurs later.

If the association's fiscal year ends less than two months prior to the convening of the annual meeting, the year-to-date unaudited financial statement may cover the period from the beginning of the association's fiscal year to the end of the month preceding the date on which notice of the annual meeting is mailed.

**§514A-97 Association of apartment owners funds; handling and disbursement.** (a) The funds in the general operating account of the association of apartment owners shall not be commingled with funds of other activities such as lease rent collections and rental operations, nor shall a managing agent commingle any association funds with the managing agent's own funds.

(b) For purposes of subsection (a), lease rent collections and rental operations shall not include the rental or leasing of common elements that is conducted on behalf of the association or the collection of ground lease rents from individual apartment owners of a project and the payment of such ground lease rents to the ground lessor; provided that:

- (1) The collection is allowed by the provisions of the declaration, bylaws, master deed, master lease, or individual apartment leases of the project;
- (2) If a management contract exists, it requires the managing agent to collect ground lease rents from the individual apartment owners and pay the ground lease rents to the ground lessor;
- (3) The system of lease rent collection is approved by a majority vote of all apartment owners at a meeting of the association; and
- (4) No managing agent or association shall pay ground lease rent to the ground lessor in excess of actual ground lease rent collected from individual apartment owners.

(c) All funds collected by an association, or by a managing agent for any association, shall be:

- (1) Deposited in a financial institution, including a federal or community credit union, located in the State and whose deposits are insured by an agency of the United States government;
- (2) Held by a corporation authorized to do business under article 8 of chapter 412;
- (3) Held by the United States Treasury; or
- (4) Purchased in the name of and held for the benefit of the association through a securities broker that is registered with the Securities and Exchange Commission, has an office in the state, and the accounts of which are held by member firms of the New York Stock Exchange or National Association of Securities Dealers and insured by the Securities Insurance Protection Corporation.

All funds collected by an association, or by a managing agent for any association, shall be invested only in:

- (1) Demand deposits, investment certificates, and certificates of deposit;
- (2) Obligations of the United States government, the State of Hawaii, or their respective agencies; provided that those obligations shall have stated maturity dates no more than ten years after the purchase date unless approved otherwise by a majority vote of the apartment owners at an annual or special meeting of the association or by written consent of a majority of the apartment owners; or
- (3) Mutual funds comprised solely of investments in the obligations of the United States government, the State of Hawaii, or their respective agencies; provided that those obligations shall have stated maturity dates no more than ten years after the purchase date unless approved otherwise by a majority vote of the apartment owners at an annual or special meeting of the association or by written consent of a majority of the apartment owners;

provided that before any investment longer than one year is made by an association, the board must approve the action; and provided further that the board must clearly disclose to owners all investments longer than one year at each year's association annual meeting.

Records of the deposits and disbursements shall be disclosed to the commission upon request. All funds collected by an association shall only be disbursed by employees of the association under the supervision of the association's board of directors. All funds collected by a managing agent from an association shall be held in a client trust fund account and shall be disbursed only by the managing agent or the managing agent's employees under the supervision of the association's board of directors. The commission may draft rules governing the handling and disbursement of condominium association funds.

(d) A managing agent or board of directors shall not transfer association funds by telephone between accounts, including but not limited to the general operating account and reserve fund account.

(e) A managing agent shall keep and disburse funds collected on behalf of the condominium owners in strict compliance with any agreement made with the condominium owners, chapter 467, the rules of the commission, and all other applicable laws.

(f) Any person who embezzles or knowingly misapplies association funds received by a managing agent or association of apartment owners shall be guilty of a class C felony.

**§514A-98 False statement.** It shall be unlawful for any person or person's agents to testify before or file with the commission any notice, statement, application, or other document required under this chapter that is false or untrue or contains any material misstatement of fact, or contains forgery. In addition to any sanctions or remedies as provided in this chapter, any violation of this section shall constitute a misdemeanor.

**§514A-99 Rules.** The commission shall adopt, amend, or repeal such rules as it may deem proper to fully effectuate this chapter.

## PART VII. ARBITRATION; MEDIATION

**§514A-121 Arbitration of disputes.** (a) At the request of any party, any dispute concerning or involving one or more apartment owners and an association of apartment owners, its board of directors, managing agent, or one or more other apartment owners relating to the interpretation, application or enforcement of chapter 514A or the association's declaration, bylaws, or house rules adopted in accordance with its bylaws shall be submitted to arbitration. The arbitration shall be conducted, unless otherwise agreed by the parties, in accordance with the rules adopted by the commission and the provisions of chapter 658A; provided that the Condominium Property Regime Rules on Arbitration of Disputes of the American Arbitration Association shall be used until the commission adopts its rules; provided further that where any arbitration rule conflicts with chapter 658A, chapter 658A shall prevail; provided further that notwithstanding any rule to the contrary, the arbitrator shall conduct the proceedings in a manner which affords substantial justice to all parties. The arbitrator shall be bound by rules of substantive law and shall not be bound by rules of evidence, whether or not set out by statute, except for provisions relating to privileged communications. The arbitrator shall permit discovery as provided for in the Hawaii rules of civil procedure; provided that the arbitrator may restrict the scope of such discovery for good cause to avoid excessive delay and costs to the parties or the arbitrator may refer any matter involving discovery to the circuit court for disposition in accordance with the Hawaii rules of civil procedure then in effect.

(b) Nothing in subsection (a) shall be interpreted to mandate the arbitration of any dispute involving:

- (1) The real estate commission;
- (2) The mortgagee of a mortgage of record;
- (3) The developer, general contractor, subcontractors, or design professionals for the project; provided that when any person exempted by this paragraph is also an apartment owner, a director, or managing agent, such person shall, in those capacities, be subject to the provisions of subsection (a);

- (4) Actions seeking equitable relief involving threatened property damage or the health or safety of apartment owners or any other person;
- (5) Actions to collect assessments that are liens or subject to foreclosure; provided that an apartment owner who pays the full amount of an assessment and fulfills the requirements of section 514A-90(d) shall have the right to demand arbitration of the owner's dispute, including a dispute about the amount and validity of the assessment;
- (6) Personal injury claims;
- (7) Actions for amounts in excess of \$2,500 against an association of apartment owners, a board of directors, or one or more directors, officers, agents, employees, or other persons, if insurance coverage under a policy or policies procured by the association of apartment owners or its board of directors would be unavailable because action by arbitration was pursued; or
- (8) Any other cases which are determined, as provided in section 514A-122, to be unsuitable for disposition by arbitration.

**§514A-121.5 Mediation; condominium management dispute resolution; request for hearing; hearing.** (a) If an apartment owner or the board of directors requests mediation of a dispute involving the interpretation or enforcement of the association of apartment owners' declaration, bylaws, or house rules, the other party in the dispute shall be required to participate in mediation. Each party shall be wholly responsible for its own costs of participating in mediation; unless at the end of the mediation process, both parties agree that one party shall pay all or a specified portion of the mediation costs. If an apartment owner or the board of directors refuses to participate in the mediation of a particular dispute, a court may take this refusal into consideration when awarding expenses, costs, and attorney's fees.

(b) If a dispute is not resolved by mediation as provided in subsection (a), in addition to any other legal remedies that may be available, any party that participated in the mediation may file a request for a hearing with the office of administrative hearings, department of commerce and consumer affairs, as follows:

- (1) The party requesting the hearing must be a board of directors of a duly registered association of apartment owners, or an apartment owner that is a member of a duly registered association;
- (2) The request for hearing must be filed within thirty days from the final day of mediation;
- (3) The request for hearing must name one or more parties that participated in the mediation as an adverse party and identify the statutory provisions in dispute; and
- (4) The subject matter of the hearing before the hearing officer may include any matter that was the subject of the mediation pursuant to subsection (a).

(c) For purposes of this section, the office of administrative hearing for the department of commerce and consumer affairs shall accept no more than thirty requests for hearing per fiscal year under this section.

(d) The party requesting the hearing shall pay a filing fee of \$25 to the department of commerce and consumer affairs, and the failure to do so shall result in the request for hearing being rejected for filing. All other parties shall file a response, accompanied by a filing fee of \$25 to the department of commerce and consumer affairs, within twenty days of being served with the request for hearing.

(e) The hearings officers appointed by the director of commerce and consumer affairs pursuant to section 26-9(f) shall have jurisdiction to review any request for hearing filed under subsection (b). The hearings officers shall have the power to issue subpoenas, administer oaths, hear testimony, find facts, make

conclusions of law, and issue written decisions that shall be final and conclusive, unless a party adversely affected by the decision files an appeal in the circuit court under section 91-14.

(f) Chapter 16-201, Hawaii Administrative Rules, shall govern all proceedings brought under this section. The burden of proof, including the burden of producing the evidence and the burden of persuasion, shall be upon the party initiating the proceeding. Proof of a matter shall be by a preponderance of the evidence.

(g) Hearings to review and make determinations upon any requests for hearings filed under subsection (b) shall commence within sixty days following the receipt of the request for hearing. The hearing officer shall issue written findings of fact, conclusions of law, and an order as expeditiously as practicable after the hearing has been concluded.

(h) Each party to the hearing shall bear the party's own costs, including attorney's fees, unless otherwise ordered by the hearing officer.

(i) Any party to a proceedings under this section who is aggrieved by a final decision of a hearing officer may apply for judicial review of that decision pursuant to section 91-14; provided that any party seeking judicial review pursuant to section 91-14 shall be responsible for the costs of preparing the record on appeal, including the cost of preparing the transcript of the hearing.

(j) The department of commerce and consumer affairs may adopt rules and forms, pursuant to chapter 91, to effectuate the purpose of this section and to implement its provisions.

**§514A-122 Determination of unsuitability.** At any time within twenty days of being served with a written demand for arbitration, any party so served may apply to the circuit court in the judicial circuit in which the condominium is located for a determination that the subject matter of the dispute is unsuitable for disposition by arbitration.

In determining whether the subject matter of a dispute is unsuitable for disposition by arbitration, a court may consider:

- (1) The magnitude of the potential award, or any issue of broad public concern raised by the subject matter underlying the dispute;
- (2) Problems referred to the court where court regulated discovery is necessary;
- (3) The fact that the matter in dispute is a reasonable or necessary issue to be resolved in pending litigation and involves other matters not covered by or related to chapter 514A;
- (4) The fact that the matter to be arbitrated is only part of a dispute involving other parties or issues which are not subject to arbitration under section 514A-121; or
- (5) Any matters of dispute where disposition by arbitration, in the absence of complete judicial review, would not afford substantial justice to one or more of the parties.

Any such application to the circuit court shall be made and heard in a summary manner and in accordance with procedures for the making and hearing of motions. The prevailing party shall be awarded its attorneys' fees and costs in an amount not to exceed \$200.

**§514A-123 Determination of insurance coverage.** In the event of a dispute as to whether a claim shall be excluded from mandatory arbitration under section 514A-121(b)(7), any party to an arbitration may file a complaint for declaratory relief against the involved insurer or insurers for a determination of whether insurance coverage is unavailable due to the pursuit of action by arbitration. The

complaint shall be filed with the circuit court in the judicial circuit in which the condominium is located. The insurer or insurers shall file an answer to the complaint within twenty days of the date of service of the complaint and the issue shall be disposed of by the circuit court at a hearing to be held at the earliest available date; provided that the hearing shall not be held within twenty days from the date of service of the complaint upon the insurer or insurers.

**§514A-124 Costs, expenses and legal fees.** Notwithstanding any provision in this chapter to the contrary, the declaration or the bylaws, the award of any costs, expenses, and legal fees by the arbitrator shall be in the sole discretion of the arbitrator and the determination of costs, expenses, and legal fees shall be binding upon all parties.

**§514A-125 Award; confirming award.** The award of the arbitrator shall be in writing and acknowledged or proved in like manner as a deed for the conveyance of real estate, and shall be served by the arbitrator on each of the parties to the arbitration, personally or by registered or certified mail. At any time within one year after the award is made and served, any party to the arbitration may apply to the circuit court of the judicial circuit in which the condominium is located for an order confirming the award. The court shall grant the order confirming the award pursuant to section 658A-22, unless the award is vacated, modified, or corrected, as provided in sections 658A-20, 658A-23, and 658A-24, or a trial de novo is demanded under section 514A-127, or the award is successfully appealed under section 514A-127. The record shall be filed with the motion to confirm award and notice of the motion shall be served upon each other party or their respective attorneys in the manner required for service of notice of a motion.

**§514A-126 Findings of fact and conclusions of law.** Findings of fact and conclusions of law, as requested by any party prior to the arbitration hearing, shall be promptly provided to the requesting party upon payment of the reasonable cost thereof.

**§514A-127 Trial de novo and appeal.** (a) The submission of any dispute to an arbitration under section 514A-121 shall in no way limit or abridge the right of any party to a trial de novo.

(b) Written demand for a trial de novo by any party desiring a trial de novo shall be made upon the other parties within ten days after service of the arbitration award upon all parties.

(c) The award of arbitration shall not be made known to the trier of fact at a trial de novo.

(d) In any trial de novo demanded under subsection (b), if the party demanding a trial de novo does not prevail at trial, the party demanding the trial de novo shall be charged with all reasonable costs, expenses, and attorneys' fees of the trial. When there is more than one party on one or both sides of an action, or more than one issue in dispute, the court shall allocate its award of costs, expenses, and attorneys' fees among the prevailing parties and tax such fees against those non-prevailing parties who demanded a trial de novo in accordance with the principles of equity.

(e) Any party to an arbitration under section 514A-121 may apply to vacate, modify, or correct the arbitration award for the grounds set out in chapter 658A. All reasonable costs, expenses, and attorneys' fees on appeal shall be charged to the nonprevailing party.'

SECTION 3. Section 467-14, Hawaii Revised Statutes, is amended to read as follows:

**“§467-14 Revocation, suspension, and fine.** In addition to any other actions authorized by law, the commission may revoke any license issued under this chapter, suspend the right of the licensee to use the license, fine any person holding a license, registration, or certificate issued under this chapter, or terminate any registration or certificate issued under this chapter, for any cause authorized by law, including but not limited to the following:

- (1) Making any misrepresentation concerning any real estate transaction;
- (2) Making any false promises concerning any real estate transaction of a character likely to mislead another;
- (3) Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise;
- (4) Without first having obtained the written consent to do so of both parties involved in any real estate transaction, acting for both the parties in connection with the transaction, or collecting or attempting to collect commissions or other compensation for the licensee’s services from both of the parties;
- (5) When the licensee, being a real estate salesperson, accepts any commission or other compensation for the performance of any of the acts enumerated in the definition set forth in section 467-1 of real estate salesperson from any person other than the real estate salesperson’s employer or the real estate broker with whom the real estate salesperson associates or, being a real estate broker or salesperson, compensates one not licensed under this chapter to perform any such act;
- (6) When the licensee, being a real estate salesperson, acts or attempts to act as a real estate broker or represents, or attempts to represent, any real estate broker other than the real estate salesperson’s employer or the real estate broker with whom the real estate salesperson is associated;
- (7) Failing, within a reasonable time, to account for any moneys belonging to others which may be in the possession or under the control of the licensee;
- (8) Any other conduct constituting fraudulent or dishonest dealings;
- (9) When the licensee, being a partnership, permits any member of the partnership who does not hold a real estate broker’s license to actively participate in the real estate brokerage business thereof or permits any employee thereof who does not hold a real estate salesperson’s license to act as a real estate salesperson therefore;
- (10) When the licensee, being a corporation, permits any officer or employee of the corporation who does not hold a real estate broker’s license to have the direct management of the real estate brokerage business thereof or permits any officer or employee thereof who does not hold a real estate salesperson’s license to act as a real estate salesperson therefore;
- (11) When the licensee, being a real estate salesperson, fails to file with the commission a written statement setting forth the name of the real estate broker by whom the licensee is employed or with whom the licensee is associated;
- (12) When the licensee fails to obtain on the contract between the parties to the real estate transaction confirmation of who the real estate broker represents;
- (13) Violating this chapter; chapter 484, 514A, 514B, 514E, or 515; section 516-71; or the rules adopted pursuant thereto;

- (14) Splitting fees with or otherwise compensating others not licensed hereunder for referring business; provided that notwithstanding paragraph (5), a real estate broker may pay a commission to:
  - (A) A licensed real estate broker of another state, territory, or possession of the United States if that real estate broker does not conduct in this State any of the negotiations for which a commission is paid;
  - (B) A real estate broker lawfully engaged in real estate brokerage activity under the laws of a foreign country if that real estate broker does not conduct in this State any of the negotiations for which a commission is paid; or
  - (C) A travel agency that in the course of business as a travel agency or sales representative, arranges for compensation the rental of transient vacation rental; provided that for purposes of this paragraph "travel agency" means any person, which for compensation or other consideration, acts or attempts to act as an intermediary between a person seeking to purchase travel services and any person seeking to sell travel services, including an air or ocean carrier;
- (15) Commingling the money or other property of the licensee's principal with the licensee's own;
- (16) Converting other people's moneys to the licensee's own use;
- (17) The licensee is adjudicated insane or incompetent;
- (18) Failing to ascertain and disclose all material facts concerning every property for which the licensee accepts the agency, so that the licensee may fulfill the licensee's obligation to avoid error, misrepresentation, or concealment of material facts; provided that for the purposes of this paragraph, the fact that an occupant has AIDS or AIDS Related Complex (ARC) or has been tested for HIV (human immunodeficiency virus) infection shall not be considered a material fact;
- (19) When the licensee obtains or causes to be obtained, directly or indirectly, any licensing examination or licensing examination question for the purpose of disseminating the information to future takers of the examination for the benefit or gain of the licensee; or
- (20) Failure to maintain a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.

Disciplinary action may be taken by the commission whether the licensee is acting as a real estate broker, or real estate salesperson, or on the licensee's own behalf."

SECTION 4. Section 467-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) As used in this section, "condominium hotel" includes those apartments in a project as defined in section 514A-3 or 514B-3 and subject to chapter 514A or 514B, which are used to provide transient lodging for periods of less than thirty days."

SECTION 5. Section 514B-86, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No sales contract for the purchase of a unit from a developer shall be binding on the developer, prospective purchaser, or purchaser until:

- (1) The developer has delivered to the prospective purchaser:
  - (A) A true copy of the developer's public report, including all amendments with an effective date issued by the commission. The

developer's public report shall include the report itself, the condominium project's recorded declaration and bylaws, house rules if any, a letter-sized condominium project map, and all amendments~~[. Where it is impractical to include a letter-sized condominium project map, the prospective purchaser or purchaser shall be provided a written notice of an opportunity to examine the map. The copy of the recorded declaration and bylaws creating the project shall indicate the document number or land court document number, or both, as applicable;]~~ that shall be:

- (i) Attached to the developer's public report itself as exhibits or shall be concurrently and separately provided to the prospective purchaser or purchaser with the developer's public report;
  - (ii) Printed copies unless the commission, prospective purchaser, or purchaser indicate in a separate writing their election to receive the required condominium's declaration, bylaws, house rules, if any, letter-sized condominium map, and all amendments through means of a computer disc, email, download from an Internet site, or by any other means contemplated by chapter 489E. Where it is impractical to include a letter-sized condominium project map, the prospective purchaser or purchaser shall be provided a written notice of an opportunity to examine the map. The copy of the recorded declaration and bylaws creating the project shall indicate the document number, land court document number, or both, as applicable; and
- (B) A notice of the prospective purchaser's thirty-day cancellation right on a form prescribed by the commission, upon which the prospective purchaser may indicate that the prospective purchaser has had an opportunity to read the developer's public report, understands the developer's public report, and exercises the right to cancel or waives the right to cancel; and
- (2) The prospective purchaser has waived the right to cancel or is deemed to have waived the right to cancel."

SECTION 6. Section 514B-103, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each project or association having more than five units shall:

- (1) Secure and maintain a fidelity bond in an amount for the coverage and terms as required by section 514B-143(a)(3). An association shall act promptly and diligently to recover from the fidelity bond required by this section. An association that is unable to obtain a fidelity bond may seek approval for an exemption, a deductible, or a bond alternative from the commission. Current evidence of a fidelity bond includes a certification statement from an insurance company registered with the department of commerce and consumer affairs certifying that the bond is in effect and meets the requirement of this section and the rules adopted by the commission;
- (4) (2) Register with the commission through approval of a completed registration application, payment of fees, and submission of any other additional information set forth by the commission. The registration shall be for a biennial period with termination on June 30 of each odd-numbered year. The commission shall prescribe a deadline date prior to

the termination date for the submission of a completed reregistration application, payment of fees, and any other additional information set forth by the commission. Any project or association that has not met the submission requirements by the deadline date shall be considered a new applicant for registration and be subject to initial registration requirements. Any new project or association shall register within thirty days of the association's first meeting. If the association has not held its first meeting and it is at least one year after the recordation of the purchase of the first unit in the project, the developer or developer's affiliate or the managing agent shall register on behalf of the association and shall comply with this section, except for the fidelity bond requirement for associations required by section 514B-43(a)(3)<sup>2</sup>. The public information required to be submitted on any completed application form shall include but not be limited to evidence of and information on fidelity bond coverage, names and positions of the officers of the association, the name of the association's managing agent, if any, the street and the postal address of the condominium, and the name and current mailing address of a designated officer of the association where the officer can be contacted directly;

- [~~(2)~~] (3) Pay a nonrefundable application fee and, upon approval, an initial registration fee, a reregistration fee upon reregistration and the condominium education trust fund fee, as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91;
- [~~(3)~~] (4) Register or reregister and pay the required fees by the due date. Failure to register or reregister or pay the required fees by the due date shall result in the assessment of a penalty equal to the amount of the registration or reregistration fee; and
- [~~(4)~~] (5) Report promptly in writing to the commission any changes to the information contained on the registration or reregistration application or any other documents required by the commission. Failure to do so may result in termination of registration and subject the project or the association to initial registration requirements."

SECTION 7. Section 514B-161, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

~~“(a) [At the request of any party to a dispute concerning or involving one or more unit owners and an association, its board, managing agent, or one or more other unit owners relating to the interpretation, application, or enforcement of this chapter or the association’s declaration, bylaws, or house rules, the parties to the dispute shall be required to participate in mediation.] If an apartment owner or the board of directors requests mediation of a dispute involving the interpretation or enforcement of the association of apartment owners’ declaration, bylaws, or house rules, the other party in the dispute shall be required to participate in mediation. Each party shall be wholly responsible for its own costs of participating in mediation, unless both parties agree that one party shall pay all or a specified portion of the mediation costs. If a party refuses to participate in the mediation of a particular dispute, a court may take this refusal into consideration when awarding expenses, costs, and attorneys’ fees.”~~

SECTION 8. Act 93, Session Laws of Hawaii 2005, is amended by amending section 9(b) to read as follows:

~~“(b) The developer of a project [registered] created or registered pursuant to chapter 514A, Hawaii Revised Statutes, may elect to register the project under the new chapter established by section 2 of Act 164, Session Laws of Hawaii 2004, as amended~~

by this Act, by submitting the application, documentation, and fees required under sections [-52] 514B-52 and [-54,] 514B-54, Hawaii Revised Statutes, in section 3 of this Act[-]; provided the property is removed from chapter 514A in accordance with section 514A-21. Upon the issuance of an effective date for the project's public report pursuant to the new chapter, the project's registration under chapter 514A, Hawaii Revised Statutes, shall terminate, the developer shall provide copies of the new public report to all existing purchasers, and the rights and obligations of the developer and all purchasers shall thereafter be governed by the new chapter; provided that unless the new public report reflects a material change to the project:

- (1) The issuance of the new public report shall not affect the enforceability of any purchase contract that previously became binding upon the purchaser;
- (2) A purchaser shall have the<sup>3</sup> right to rescind the purchase contract; and
- (3) A developer shall not be required to deliver a notice of thirty-day right of cancellation as specified in section [-86,] 514B-86, Hawaii Revised Statutes, in section 4 of this Act.”

SECTION 9. Where an association is unable to obtain the required fidelity bond of section 514B-103, the real estate commission's current fidelity bond exemption policies shall be used until such time as the real estate commission adopts rules.

SECTION 10. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval; provided that sections 2, 3, and 4 shall take effect retroactive to July 1, 2006; provided further that section 514A-121.5(b) to (j) in section 2 of this Act shall be repealed on June 30, 2009; provided further that cases pending before the office of administrative hearings of the department of commerce and consumer affairs as part of the condominium dispute resolution pilot project established by section 28 of Act 164, Session Laws of Hawaii 2004, on June 30, 2006, that may have been dismissed due to the repeal of part VII of chapter 514A, Hawaii Revised Statutes, shall be reinstated and subject to section 514A-121.5, Hawaii Revised Statutes, in section 2 of this Act.

(Approved July 2, 2007.)

#### Notes

1. Should probably be “514A-82(b)(4)”.
2. Prior to amendment “514B-143(a)(3)” appeared here.
3. Prior to amendment “no” appeared here. “The” should be underscored.

## ACT 245

H.B. NO. 19

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, pursuant to Act 246, Session Laws of Hawaii 2005, the school impact fee working group was tasked with analyzing salient issues, including “fair share” practices and enrollment projections by the department of education, alternative funding mechanisms and best practices utilized by

other jurisdictions nationwide, and different infrastructure needs imposed by different types of development, including infill. The working group was also asked to submit proposed legislation or procedures for implementing its recommendations on determining school impact fees within identified school impact districts.

In its report to the legislature entitled Hawaii School Impact Fee Study (December 2006), the working group recommended that the department of education determine each school impact district appropriate student generation rate.

The purpose of this Act is to implement the working group’s recommendation for implementing a new method for financing, in part, new or expanding existing department of education educational facilities in partnership with developers of new residential developments. This Act reflects a general methodology and approach for identifying need areas and calculating appropriate school impact fees for new residential developments. It also recognizes the need for more detailed planning for implementation of this Act by the department of education, and recognition of how the methodology will be applied in new residential projects involving rezoned properties or parcels, current zoned parcels with or without buildings, and redevelopment projects.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**‘PART . SCHOOL IMPACT FEES**

**§302A-A Findings.** New residential developments within identified school impact districts create additional demand for public school facilities. As such, once identified, new residential developments will be required to contribute toward the construction of new or expansion of existing public school facilities through:

- (1) The land requirement, either through an in lieu fee or actual acreage (unless land is not required in the school impact district); and
- (2) The construction requirement either through an in lieu fee or actual construction based on the proportionate share of the need to construct additional facilities.

A study commissioned by the State has identified the land dedication requirement that is consistent with proportionate fair-share principles and the net capital cost of school facilities, excluding land costs, that is consistent with proportionate fair-share principles.

The State determines that new residential developments within designated school impact districts shall provide land for schools or pay a fee in lieu of land proportionate to the impacts of the new residential development on existing school facilities. The State also determines that new residential developments within designated school impact districts shall also pay school impact fees proportionate to their impacts. This part establishes the methodology for developers to provide their proportionate share of the land and the construction cost of new or expanded school facilities needed to serve new residential developments, as determined in section 302A-G.

**§302A-B Definitions.** As used in this part, the following terms shall have the following meanings unless the context indicates otherwise:

“Acres/student” means the number of acres required per student based on design standards for schools.

“Construction cost” means the net cost to construct a school, including without limitation planning, design, engineering, grading, permits, construction, and construction and project management, but not including the cost to acquire land. The intent of the school impact fee calculation is that new developments should not be charged for a higher level of service than is being provided to existing developments.

A reasonable measure of the level of service is the percentage of classrooms that are in permanent structures, as opposed to portable buildings.

“Cost per student” means the construction cost for a school per student (actual school construction cost divided by enrollment capacity).

“Cost/unit” means the impact fee for school construction (land and construction).

“County” means the city and county of Honolulu, the county of Hawaii, the county of Kauai, and the county of Maui.

“Developer” means a person, corporation, organization, partnership, association, or other legal entity constructing, erecting, enlarging, altering, or engaging in any residential development activity.

“Dwelling unit” or “unit” means a multi-family or single-family residential unit.

“Fee in lieu” means a fee determined pursuant to section 302A-F.

“Land component” means a fee simple property that is vacant and improved (with infrastructure).

“Multi-family” means any dwelling unit other than a single family dwelling unit.

“Multi-family unit count” means the total multi-family dwelling units planned for a proposed development.

“New residential development” means new residential projects involving rezoned properties or parcels, current zoned parcels with or without buildings, and redevelopment projects. These projects include “lot only” developments (when the dwelling unit will not be built by the developer), and include condominiums, additional dwelling units as defined by each county, and subdivisions.

“Owner” means the owner of record of real property or the owner’s agent.

“Proportionate share” means the pro-rata share of the school impact fee attributed to the specific development based on the student generation rate from the project.

“Recent school construction averages” means the department’s historical average acres required and enrollment capacity for elementary (K–5), middle (6–8), and high (9–12) schools. Based on existing school construction data, the historical average design standards are as follows:

	Acres/school	Enrollment/school	Acres/student
Elem.	12.5 acres	800 students	.0156 acres
Middle	16.5 acres	1,500 students	.0110 acres
High	49 acres	1,600 students	.0306 acres

“Revenue credit” means the state general tax revenues under chapter 237 that will be generated by the new residential unit and used to fund school capital facilities and pay for outstanding debt on existing facilities.

“School facilities” means the facilities owned or operated by the department, or the facilities included in the department of education capital budget or capital facilities plan.

“School impact district” means a geographic area designated by the board where anticipated growth will create the need for one or more new schools or the expansion of one or more existing schools that are or will be located within the area and will primarily serve new housing units within the area.

“School impact fee: construction cost component” means ten per cent of the construction cost associated with the construction of a new school or expansion of an existing school facility.

“School impact fee: land component” means the pro rata share of the fair market value of the fee simple land or acreage attributed to the specific development based on the student generation rate from the project.

“Single-family” means a detached dwelling unit not connected to any other dwelling unit, or a detached building containing two dwelling units.

“Single-family unit count” means the total single-family units planned for a proposed development.

“Student generation rate” means the number of students generated by each multi-family and single-family unit when a residential development has matured and enrollment no longer fluctuates, or achieves a steady state.

**§302A-C Applicability and exemptions.** (a) Except as provided in subsection (b), any person who seeks to develop a new residential development within a designated school impact district requiring:

- (1) A county subdivision approval;
- (2) A county building permit; or
- (3) A condominium property regime approval for the project,

shall be required to fulfill the land requirement and vertical construction requirement of the department.

(b) The following shall be exempt from this section:

- (1) Any form of housing permanently excluding school-aged children, with the necessary covenants or declarations of restrictions recorded on the property;
- (2) Any form of housing which is or will be paying the transient accommodation tax under chapter 237D;
- (3) All nonresidential development; and
- (4) Any development with an executed education contribution agreement or other like document with the department for the contribution of school sites or payment of fees for school land or school construction.

**§302A-D Designation of school impact districts.** (a) The board shall designate a school impact district for school impact fees only after holding at least one public hearing in the area proposed for the school impact district. The written analysis, prepared in accordance with subsection (b), shall be made available to the public at least thirty days prior to the public hearing. Notice of the public hearing shall be made as provided in section 1-28.5. The notice shall include a map of the proposed school impact district and the date, time, and place of the public hearing.

(b) Prior to the designation of a school impact district, the department shall prepare a written analysis that contains the following:

- (1) A map and legend describing the boundaries of the area, which may range from one school to one or more high school complexes; and
- (2) Analysis to support the need to construct new or expand existing school facilities in the area within the next twenty-five years to accommodate projected growth in the area based on various state and county land use, demographics, growth, density, and other applicable plans.

**§302A-E Impact fee analysis.** (a) Upon designation of a school impact district, the department shall prepare an impact fee analysis that shall include, at a minimum, the following:

- (1) An analysis to determine appropriate student generation rates by housing type (multi-family unit count and single-family unit count) for new developments in the area. The analysis shall also consider enrollment at existing school facilities, in and around the school impact district;

- (2) Student generation rates, based on full build-out of the development when student generation rates are anticipated to be in a steady state mode (permanent facility);
- (3) Analysis of the initial development period, when student enrollments are anticipated to peak (to determine capacity of facilities);
- (4) An analysis to identify the percentages of existing statewide student enrollment at the elementary school, middle or intermediate school, and high school levels that are located in permanent structures, as opposed to portable buildings, in surrounding high school complexes;
- (5) Calculation of the current statewide level of service, which shall be the ratio of current student capacity at all school levels to the current enrollment at all school levels;
- (6) An analysis of proposed redistricting, listing the advantages and disadvantages by making more efficient use of existing underutilized assets;
- (7) An analysis of appropriate school land area and enrollment capacity, which may include non-traditional (i.e. mid-rise or high-rise structures) facilities to accommodate the need for public school facilities in high growth areas within existing urban developments; and
- (8) An analysis to identify the percentages of existing student enrollment at the elementary school, middle or intermediate school, and high school levels that are located in permanent structures, and the percentages that are located in portable buildings in surrounding high school complexes.

**§302A-F Impact fee: land component-determining the amount of land or fee in lieu.** (a) The area requirements for new school facilities shall be determined based on the recent school construction averages.

(b) The procedure for determining whether the dedication of land is required or a payment of a fee in lieu is required for a new school facility shall be as follows:

- (1) A new residential development of greater than or equal to fifty units, shall include a written agreement, prior to the issuance of a building permit, between the owner or developer of the property and the department, under which the owner or developer has:
  - (A) Agreed to designate an area to be dedicated for one or more schools for the development, subject to approval by the department; or
  - (B) Agreed to pay to the department, at a time specified in the agreement, a fee in lieu of land dedication;
- (2) New residential developments of less than fifty units shall include a written agreement, between the owner or the developer of the property and the department, under which the owner or developer has agreed to a time specified for payment for the fee in lieu prior to the issuance of the building permit;
- (3) Prior to approval of any subdivision, change of zoning, or any other approval for a:
  - (A) Residential development equal to or greater than fifty units; or
  - (B) Condominium property regime development of fifty units or more,

the department shall notify the approving agency of its determination on whether to require the dedication of land, the payment of a fee in lieu thereof, or a combination of both;

- (4) When land dedication is required, the land shall be conveyed to the State upon completion of the subdivision improvements and any offsite infrastructure necessary to serve the land;

- (5) When the payment of a fee in lieu is required, the fee in lieu shall be paid based on the terms contained in the written agreement;
- (6) Whether the department determines to require land dedication or the payment of a fee in lieu, shall be guided by the following criteria:
  - (A) The topography, geology, access, value, and location of the land available for dedication;
  - (B) The size and shape of the land available for dedication;
  - (C) The location of existing or proposed schooling facilities; and
  - (D) The availability of infrastructure; and
- (7) The determination of the department as to whether lands shall be dedicated or whether a fee in lieu shall be paid, or a combination of both, shall be final.

(c) In determining the value per acre for any new residential development, the fee simple value of the land identified for the new or expanded school facility shall be based on the appraised fair market value of improved, vacant land, zoned for residential use, and serviced by roads, utilities, and drainage. An appraiser, licensed pursuant to chapter 466K, who is selected and paid for by the developer, shall determine the value of the land. If the department does not agree with the developer's appraisal, the department may engage another licensed appraiser at its own expense, and resolve, through negotiation between the two appraisers, a fair market value. If neither party agrees, the first two appraisers shall select the third appraiser, with the cost of the third appraisal being shared equally by the department and the developer, and the third appraisal shall be binding on both parties.

(d) The developer or owner of new residential developments of greater than fifty units shall either pay the in lieu fee based on the land value as determined in subsection (c) or convey appropriate acreage as determined in subsection (b). When conveying the fee simple interest for the new or expanded school facility, the developers shall be credited the difference between the fair market fee simple value of the property and the developers' proportionate share of the value of the land as determined in subsection (c) against any impact fees for construction. Any excess may be transferred and used as credit against any future land or construction cost requirements on any other development of the State.

(e) The dollar amount of the fee in lieu shall be determined using the following formula:

Acres of land calculated according to subsection (b) multiplied by the value per acre of land determined pursuant to subsection (c).

**§302A-G Impact fee: construction cost component – determining the cost per unit.** (a) The construction cost component of the school impact fees shall be calculated using the following factors:

- (1) For new school construction, the cost per student for each school type (elementary, middle or intermediate, and high school) is based on the ten year average construction of a new school facility using the Honolulu assessment district in 2006 as the base. Costs for construction completed earlier than 2006 shall be escalated to 2006 using the engineering news-record construction cost index;
- (2) For expansion of existing school facilities, the cost per student for each school type (elementary, middle or intermediate, and high school) is based on the ten year average construction of whatever components are required to expand the school using the Honolulu assessment district in 2006 as the base;
- (3) The cost per student in other assessment districts shall be the cost per student in the Honolulu assessment district multiplied by the appropriate

ate cost factor in subsection (c). At least every three years, the department shall update the cost per student based on the construction of a new permanent school facility, and present the written analysis to the board for review; and

(4) Student generation rates, as defined in section 302A-B.

(b) The student generation rate for each school type (elementary, middle or intermediate, and high school) shall be multiplied by the cost per student for each school type (elementary, middle or intermediate, and high school) to determine the cost/unit in the development.

(c) The State shall be divided into the following twenty-six geographically limited cost districts:

Cost District	School District	Cost Factor
Honolulu	Honolulu	1.00
Ewa	Leeward/Central	1.00
Wahiawa	Central	1.05
Waialua	Central	1.10
Koolaupoko	Windward	1.00
Koolauloa	Windward	1.00
Waianae	Leeward	1.10
Hilo	Hawaii	1.15
Puna	Hawaii	1.20
Kona	Hawaii	1.20
Hamakua	Hawaii	1.20
South Kohala	Hawaii	1.20
North Kohala	Hawaii	1.25
Pohakuloa	Hawaii	1.25
Kau	Hawaii	1.30
Wailuku	Maui	1.15
Makawao	Maui	1.25
Lahaina	Maui	1.30
Hana	Maui	1.35
Molokai	Molokai	1.30
Lanai	Lanai	1.35
Lihue	Kauai	1.15
Koloa	Kauai	1.20
Kawaihau	Kauai	1.20
Waimea	Kauai	1.25
Hanalei	Kauai	1.25

(d) At least every three years, and concurrent with any update of the costs per student, the department shall update the revenue credits and present the written analysis to the board for review. The calculation of revenue credits shall be reviewed and calculated recognizing that the impact fee shall be set at one hundred per cent of the fair market value of the land and ten per cent of the total school construction cost.

(e) The construction cost component of the impact fees per dwelling unit shall be ten per cent of the amounts calculated according to the following formula:

Cost per dwelling unit from section 302A-G(b) minus any amount by which the revenue credit per dwelling unit from subsection (d) exceeds ninety per cent of the per unit construction cost.

(f) The amount of the fee shall be increased from the date it was determined to the date it is paid using the engineering news-record construction cost index, or an equivalent index if that index is discontinued.

(g) Any new residential development shall be required to obtain a written agreement between the owner or developer of the property and the department, under which the owner or developer has agreed to a time specified for payment, for its school impact fee construction cost component prior to the issuance of the building permit.

**§302A-H Accounting and expenditure requirements.** (a) Each designated school impact district shall be a separate benefit district. Fees collected within each school impact district shall be spent only within the same school impact district for the purposes collected.

(b) Land dedicated by the developer shall be used only as a site for the construction of one or more new schools or for the expansion of existing school facilities. If the land is never used for the school facility, it shall be returned to the developer, or the developer's successor in interest. Once used, the land may be sold, with the proceeds used to acquire land for school facilities in the same school impact district.

(c) Fee in lieu funds may be used for expenses related to acquiring a piece of land, including but not limited to surveying, appraisals, and legal fees. Fee in lieu funds shall not be used for the maintenance or operation of existing schools in the district, construction costs, including architectural, permitting, or financing costs, or administrative expenses.

(d) Impact fees for the construction cost component shall be used only for the costs of new school facilities that expands the student capacity of existing schools or adds student capacity in new schools. School impact fees may not be used to replace an existing school located within the same school impact district, either on the same site or on a different site. In the event of closure, demolition, or conversion of an existing permanent department facility within a school impact district that has the effect of reducing student capacity, an amount of new student capacity in permanent buildings equivalent to the lost capacity shall be funded with non-school impact fee revenue. Eligible construction costs include but are not limited to planning, engineering, architectural, permitting, financing, and administrative expenses, and any other capital equipment expenses pertaining to educational facilities. Impact fees for the construction cost component shall not be expended for:

- (1) Any costs related to the acquisition of land;
- (2) The maintenance or operation of existing schools in the district; or
- (3) Portable or temporary facilities.

(e) Impact fees and fees in lieu shall be expended or encumbered within twenty years of the date of collection. Fees shall be considered spent or encumbered on a first-in, first-out basis. An expenditure plan for the impact fees shall be incorporated into the annual budget process of the department and subject to legislative approval of the budget.

**§302A-I Refunds.** If the fee in lieu or impact fee is not expended within twenty years of the date of collection, the department shall either:

- (1) Refund to the developer, or the developer's successor in interest, the amount of the fee in lieu paid and any interest accrued thereon; or
- (2) Recommit the fees for another twenty-year period for construction of new schools in the school impact district, as authorized by the developer or the developer's successor.

**§302A-J Credits for land dedication.** (a) Any person subject to the land dedication requirements pursuant to this part may apply for credit against any similar dedication or payment accepted and received by the department for the project.

(b) Any credit provided for under this section shall be based on the value, determined in the manner provided under section 302A-F.

(c) Excess credits for land contributions prior to the effective date of this Act shall be based on the value; provided that the credit amount shall not exceed the value of the dedication or fee in lieu required under this part.

**§302A-K Credits for impact fees.** (a) Any applicant subject to the school impact fee requirements pursuant to this part may apply for credit for any similar contribution, payment, or construction of public school facilities accepted and received by the department. No credit shall be authorized against the impact fees in lieu of land dedication.

(b) A credit may be applied only against school impact fees that would otherwise be due for new residential developments for which the payment or contribution was agreed to in a written educational contribution agreement. The department shall maintain an accounting of the amount of the credit applicable to the new residential development and shall reduce the amount of the credit by the amount of the school impact fees that would otherwise be due for each building permit issued for the new residential development. After the credit balance is exhausted, no additional credits shall be applied to subsequent building permits issued within the new residential development.

(c) If private construction of school facilities is proposed by a developer after the effective date of this Act, if the proposed construction is acceptable to the department, and if the value of the proposed construction exceeds the total impact fees that would be due from the development, the department shall execute with the developer an agreement to provide reimbursement for the excess credit from the impact fees collected from other developers within the same benefit district. For the purposes of this section, the private construction of school facilities is a "public work" pursuant to chapter 104."

SECTION 3. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§46- School impact fees.** No new residential development in a designated school impact district under chapter 302A shall be issued a residential building permit or condominium property regime building permit until the department of education provides written confirmation that the permit applicant has fulfilled its school impact fee requirements. This section shall only apply to new dwelling units.”

SECTION 4. **Implementation and interim procedures.** Recognizing the need for more details to fully implement this Act, and the fact that development is a continuous and ongoing process, the legislature finds that implementation shall be as follows:

- (1) Within one year of the effective date of this Act:
  - (A) The department of education shall identify school impact districts that shall include an assessment of high growth areas and school facility utilization throughout the State; and
  - (B) The department of education shall assess, analyze, and develop an appropriate methodology to determine future school facility needs in new, build-out (existing parcels with or without building), and in-fill developments;
- (2) During this interim period, developers who do not have an existing executed education contribution agreement or other like document with the department of education for the contribution of school sites or

payment of fees for school land or school construction with the department may:

- (A) Use the methodology outlined in this Act to determine land and construction cost components of the school impact fees for their developments based on student generation rates appropriate for their respective developments. These student generation rates shall be based on a full build-out and a reasonable expectation of permanent school facilities needed to accommodate a development at a steady state. These calculations shall be made in coordination with the department of education and subject to its approval; and
  - (B) Assist the department of education with temporary facility needs, separate and apart from impact fees for permanent facilities; and
- (3) During the interim period, the department of education shall assess other funding sources for the construction of new schools and the expansion of existing schools, such as a dedicated percentage of the conveyance tax that would be applied to all real estate sales transactions and the proceeds from which may be deposited into a dedicated funding source for public school construction.

SECTION 5. In codifying the new sections added 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. The department of education shall submit an annual report to the legislature on the state of the implementation of this Act no later than twenty days prior to the convening of each regular session.

SECTION 7. New statutory material is underscored.<sup>1</sup>

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

(Approved July 3, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 246**

S.B. NO. 17

A Bill for an Act Relating to Procurement.

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

SECTION 1. The purpose of this Act is to:

- (1) Prohibit certain types of provisions in governmental procurement contracts entered into on or after July 1, 2007, that require contractors to defend the governmental body;
- (2) Allow the contracts to require an individual licensed pursuant to chapter 464, Hawaii Revised Statutes, indemnify and hold harmless the governmental body; and
- (3) Bar enforcement of certain provisions of existing contracts.

SECTION 2. Chapter 103D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§103D- Defense of a governmental body.** (a) No contract of less than \$1,000,000 that is entered into on or after July 1, 2007, by any governmental body, and is exclusively for services that may only lawfully be provided by a person licensed under chapter 464, may require the contractor to defend the governmental body, or its officers, employees, or agents, from any liability, damage, loss, or claim, action, or proceeding arising out of the contractor’s performance under the contract.

(b) Subsection (a) notwithstanding, the contract may require the contractor providing the services to indemnify and hold harmless the governmental body and its officers, employees, and agents from and against any liability, damage, loss, cost, and expense, including reasonable attorneys’ fees, and all claims, suits, and demands therefor arising out of or resulting from the negligent, reckless, intentional, or wrongful acts, errors, or omissions of the contractor, the contractor’s employees, officers, agents, or subcontractors in the performance of the contract or the contractor’s professional services, and the provisions may remain in full force and effect notwithstanding the expiration or early termination of the contract.

(c) No person licensed under chapter 464 that has agreed in any contract to defend a governmental body, including those contracts entered into before or after July 1, 2007, shall be required to defend the governmental body in a lawsuit filed more than ten years beyond the substantial completion of the project, except that this subsection shall not apply to any lawsuit that has been filed prior to July 1, 2007.

(d) As used in this section, “person” means any person, partnership, corporation, or other entity conducting business in the State.”

SECTION 3. Except as provided in subsection (c) of the new section added to chapter 103D, Hawaii Revised Statutes, under section 2 of this Act, 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. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. In the event any provision in this Act is held illegal or unconstitutional, including as violative of article I, section 5 of the Hawaii Constitution, such provision shall be void and of no effect, but under no circumstances shall such provision, by operation of law, be deemed to extend protections to any other class or group of persons.

SECTION 6. New statutory material is underscored.<sup>1</sup>

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

(Approved July 3, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Health Insurance.

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

SECTION 1. Section 431:2-201.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) All group health issuers shall offer all small group health plans to all small employers whose employees live, work, or reside in the group health issuer’s service areas; provided that the commissioner may exempt a group health issuer if the commissioner determines that the group health issuer does not have the capacity to deliver services adequately to enrollees of additional groups given its obligation to existing employer groups[-]; and provided further that the commissioner shall exempt from this subsection group health plans offered to small employers that employ only one employee, if the group health issuer offers the small employer groups at least one small group health plan that meets the requirements of chapter 393, and upon the determination by the commissioner that the group health issuer has the capacity to adequately deliver services to enrollees of the additional groups, subject to its obligations to existing employer groups.”

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

SECTION 3. This Act shall take effect on July 1, 2007.

(Approved July 3, 2007.)

A Bill for an Act Relating to the Uniform Athlete Agents Act.

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

SECTION 1. The purpose of this Act is to enact the Uniform Athlete Agents Act. The legislature finds that the Uniform Athlete Agents Act, which was developed by the National Conference of Commissioners on Uniform State Laws, protects student-athletes and educational institutions by regulating the way sports agents deal with students on an initial agency agreement. This Act requires agents to register with the department of commerce and consumer affairs and to disclose current business information and any negative history, such as a loss of licensure, an administrative sanction, or a finding of conduct causing eligibility violations. This Act protects both student-athletes and schools by requiring specific warnings about the potential loss of eligibility to appear in the contract and by requiring both the athlete agent and the student-athlete to notify the affected school if an agreement is signed.

In September 2004, the federal Sports Agent Responsibility and Trust Act (P.L. 108-304) was enacted into law. This federal law prohibits certain acts and practices by athlete agents as unfair and deceptive trade practices and gives the Federal Trade Commission, as well as the states, jurisdiction to enforce these provisions. Recognizing that there is more to be done at the state level, the Congress included a “sense of Congress” statement in section 8 of that Act stating, “It is the sense of Congress that States should enact the Uniform Athlete Agents Act of 2000

drafted by the National Conference of Commissioners on Uniform State Laws, to protect student-athletes and the integrity of amateur sports from unscrupulous sports agents. In particular, it is the sense of Congress that States should enact the provisions relating to the registration of sports agents, the required form of contract, the right of the student-athlete to cancel an agency contract, the disclosure requirements relating to record maintenance, reporting, renewal, notice, warning, and security, and the provisions for reciprocity among the States.”

The legislature therefore finds it appropriate to enact the Uniform Athlete Agents Act as an important corollary to the recently-enacted federal legislation to ensure that appropriate protections are provided to Hawaii’s student-athletes and educational institutions.

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

## “CHAPTER UNIFORM ATHLETE AGENTS ACT

§ -1 **Definitions.** As used in this chapter, unless the content otherwise requires:

“Agency contract” means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract.

“Athlete agent” means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.

“Athletic director” means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

“Contact” means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract.

“Director” means the director of commerce and consumer affairs.

“Endorsement contract” means an agreement under which a student-athlete is employed or receives consideration to use, on behalf of the other party, any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

“Intercollegiate sport” means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics.

“Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

“Professional-sports-services contract” means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Registration” means registration as an athlete agent pursuant to this chapter.

“State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

“Student-athlete” means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

**§ -2 Service of process; subpoenas.** (a) By acting as an athlete agent in this State, a nonresident individual appoints the director as the individual’s agent for service of process in any civil action in this State related to the individual’s acting as an athlete agent in this State.

(b) The director may issue subpoenas for any material that is relevant to the administration of this chapter.

**§ -3 Athlete agents: registration required; void contracts.** (a) Except as otherwise provided in subsection (b), an individual may not act as an athlete agent in this State without holding a certificate of registration under section -5 or -7.

(b) Before being issued a certificate of registration, an individual may act as an athlete agent in this State for all purposes except signing an agency contract, if:

- (1) A student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and
- (2) Within seven days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this State.

(c) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.

**§ -4 Registration as athlete agent; form; requirements.** (a) An applicant for registration shall submit an application for registration to the director in a form prescribed by the director. An application filed under this section is a government record. The application shall be in the name of an individual and, except as otherwise provided in subsection (b), signed or otherwise authenticated by the applicant under penalty of perjury or of unsworn falsification to authorities, as applicable, and shall state or contain:

- (1) The name of the applicant and the address of the applicant’s principal place of business;
- (2) The name of the applicant’s business or employer, if applicable;
- (3) Any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application;
- (4) A description of the applicant’s:
  - (A) Formal training as an athlete agent;
  - (B) Practical experience as an athlete agent; and
  - (C) Educational background relating to the applicant’s activities as an athlete agent;
- (5) The names and addresses of three individuals not related to the applicant who are willing to serve as references;
- (6) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five years next preceding the date of submission of the application;
- (7) The names and addresses of all persons who are:

- (A) With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and
  - (B) With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five per cent or greater;
- (8) Whether the applicant or any person named pursuant to paragraph (7) has been convicted of a crime that, if committed in this State, would be a crime involving moral turpitude or a felony, and identify the crime;
  - (9) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (7) has made a false, misleading, deceptive, or fraudulent representation;
  - (10) Any instance in which the conduct of the applicant or any person named pursuant to paragraph (7) resulted in the imposition on a student-athlete or educational institution of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event;
  - (11) Any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (7) arising out of occupational or professional conduct; and
  - (12) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named pursuant to paragraph (7) as an athlete agent in any state.

(b) An individual who has submitted an application for, and holds a certificate of, registration or licensure as an athlete agent in another state, may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (a). The director shall accept the application and the certificate from the other state as an application for registration in this State if the application to the other state:

- (1) Was submitted in the other state within the six months next preceding the submission of the application in this State and the applicant certifies that the information contained in the application is current;
- (2) Contains information substantially similar to or more comprehensive than that required in an application submitted in this State; and
- (3) Was signed by the applicant under penalty of perjury or of a related offense in the other state.

**§ -5 Certificate of registration; issuance or denial; renewal.** (a) Except as otherwise provided in subsection (b), the director shall issue a certificate of registration to an individual who complies with section -4(a) or whose application has been accepted under section -4(b).

(b) The director may refuse to issue a certificate of registration if the director determines that the applicant has engaged in conduct that has a significantly adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the director may consider whether the applicant has:

- (1) Been convicted of a crime that, if committed in this State, would be a crime involving moral turpitude or a felony;
- (2) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;
- (3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
- (4) Engaged in conduct prohibited by section -13;

- (5) Had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any state;
  - (6) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or
  - (7) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.
- (c) In making a determination under subsection (b), the director shall consider:

- (1) How recently the conduct occurred;
- (2) The nature of the conduct and the context in which it occurred; and
- (3) Any other relevant conduct of the applicant.

(d) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the director. An application filed under this section is a government record. The application for renewal shall be signed by the applicant under penalty of perjury or of unsworn falsification to authorities, as applicable, and shall contain current information on all matters required in an original registration.

(e) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (d), may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The director shall accept the application for renewal from the other state as an application for renewal in this State if the application to the other state:

- (1) Was submitted in the other state within the six months next preceding the filing in this State and the applicant certifies the information contained in the application for renewal is current;
- (2) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this State; and
- (3) Was signed by the applicant under penalty of perjury or of a related offense in the other state.

(f) A certificate of registration or a renewal of a registration is valid for two years.

**§ -6 Suspension, revocation, or refusal to renew registration.** (a) The director may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under section -5(b).

(b) The director may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing pursuant to chapter 91.

**§ -7 Temporary registration.** The director may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

**§ -8 Fees and expenses.** No applicant or registrant shall be issued a certificate of registration unless the appropriate fees have been paid. Unless otherwise provided by law, the director shall establish the amount of all fees and expenses by rules adopted pursuant to chapter 91, and the fees shall be deposited with the director to the credit of the compliance resolution fund established pursuant to section 26-9(o).

§ -9 **Required form of contract.** (a) An agency contract shall be in a record, signed or otherwise authenticated by the parties.

(b) An agency contract shall state or contain:

- (1) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;
- (2) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract;
- (3) A description of any expenses that the student-athlete agrees to reimburse;
- (4) A description of the services to be provided to the student-athlete;
- (5) The duration of the contract; and
- (6) The date of execution.

(c) An agency contract shall contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

**“WARNING TO STUDENT-ATHLETE**

**IF YOU SIGN THIS CONTRACT:**

- (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;**
- (2) **IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND**
- (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.”**

(d) An agency contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

(e) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

§ -10 **Notice to educational institution.** (a) Within seventy-two hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or at which the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(b) Within seventy-two hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled or intends to enroll that the student-athlete has entered into an agency contract.

§ -11 **Student-athlete’s right to cancel.** (a) A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen days after the contract is signed.

(b) A student-athlete may not waive the right to cancel an agency contract.

(c) If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

§ **-12 Required records.** (a) An athlete agent shall retain the following records for a period of five years:

- (1) The name and address of each individual represented by the athlete agent;
- (2) Any agency contract entered into by the athlete agent; and
- (3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.

(b) Records required by subsection (a) to be retained shall be open to inspection by the director during normal business hours.

§ **-13 Prohibited conduct.** (a) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:

- (1) Give any materially false or misleading information or make a materially false promise or representation;
- (2) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or
- (3) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

(b) An athlete agent may not intentionally:

- (1) Initiate contact with a student-athlete unless registered under this chapter;
- (2) Refuse or fail to retain or permit inspection of the records required to be retained by section -12;
- (3) Fail to register when required by section -3;
- (4) Provide materially false or misleading information in an application for registration or renewal of registration;
- (5) Predate or postdate an agency contract; or
- (6) Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

§ **-14 Criminal penalties.** An athlete agent who violates section -13 is guilty of a misdemeanor.

§ **-15 Civil remedies.** (a) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of this chapter. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

(b) Damages of an educational institution under subsection (a) include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of this chapter or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion or regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

(c) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.

(d) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.

(e) This chapter does not restrict rights, remedies, or defenses of any person under law or equity.

§ -16 **Civil penalty.** Any person who violates any provision of this chapter or its rules shall be fined not more than \$25,000 for each offense, and each day's violation or failure to comply shall be deemed a separate offense. Fines shall be deposited with the director to the credit of the compliance resolution fund pursuant to section 26-9(o). Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

§ -17 **Uniformity of application and construction.** In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ -18 **Electronic Signatures in Global and National Commerce Act.** The provisions of this chapter governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

§ -19 **Rules.** The director may adopt, amend, and repeal rules that the director considers necessary or expedient for the regulation and oversight of this chapter. The rules, when adopted pursuant to chapter 91, shall have the force and effect of law.”

SECTION 3. This Act shall take effect on July 1, 2008.

(Approved July 3, 2007.)

## ACT 249

H.B. NO. 487

A Bill for an Act Relating to Housing Programs.

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

### PART I

SECTION 1. Act 180, Session Laws of Hawaii 2006 (Act 180), repealed chapter 201G, Hawaii Revised Statutes, the housing and community development corporation of Hawaii, and divided its powers and functions between two separate agencies: the Hawaii housing finance and development corporation and the Hawaii public housing authority, established in chapters 201H and 356D, Hawaii Revised Statutes, respectively.

Section 14 of Act 180 directed the legislative reference bureau to further implement these changes by amending specified sections of the Hawaii Revised Statutes that reference the repealed chapter 201G, Hawaii Revised Statutes, or any of its various sections, and proposing substitutions to the new chapters 201H and 356D, Hawaii Revised Statutes. This part implements these changes.

SECTION 2. Section 10-13.6, Hawaii Revised Statutes, is amended to read as follows:

**“§10-13.6 Public land trust conveyed for the development of housing projects.** (a) This section applies to the revenue derived from ~~[any]~~ land of the public land trust ~~[which]~~ as designated in subsection (e) that is conveyed by the department of land and natural resources to the Hawaii housing finance and development corporation for the development of housing projects as defined under [sections 201G-1 and 201G-112.] section 201H-1. The amount due to the office shall be determined by multiplying the fair market value of the land by twenty per cent. For the purpose of this section, ~~“fair”~~:

“Fair” market value” means the amount of money ~~[which]~~ that a purchaser willing but not obliged to buy the land would pay to an owner willing but not obliged to sell it, taking into consideration the highest and best use of the land. ~~[For the purpose of this section, “highest]~~

“Highest” and best use” means the most profitable, probable, and legal use to which the land can be put.

(b) Fair market value shall be determined on a per acre basis pursuant to appraisals performed in conformance with the uniform standards of professional appraisal practice as adopted by the department of commerce and consumer affairs, not more than ninety days before the conveyance of the land to the Hawaii housing finance and development corporation. The appraisals shall be performed by two disinterested appraisers each of whose services shall be contracted by the department of land and natural resources and the office, respectively. If the land is of the public land trust and sugarcane lands, as defined by ~~[Article]~~ article XII, ~~[Section]~~ section 1 of the ~~[State Constitution,]~~ state constitution, the office and the department of Hawaiian home lands shall contract the services of one appraiser. The parties shall contract the services of the appraisers within thirty ~~[working]~~ business days after the department of land and natural resources gives written notice to the office, together with the department of Hawaiian home lands if the land is of the public land trust and sugarcane lands, of the proposed conveyance of the land to the Hawaii housing finance and development corporation.

If any party fails or refuses to contract the services of an appraiser, then the other party may petition ~~[the presiding judge of]~~ the circuit court ~~[of the State]~~ in the county where the land is located to appoint the other of the two appraisers. If the two appraisers are unable to agree on a fair market value, then within thirty days thereafter, the department of land and natural resources and the office, together with the department of Hawaiian home lands if the land is of the public land trust and sugarcane lands, shall contract for the services of a mutually ~~[selected]~~ agreed upon third appraiser and the decision of the majority of the appraisers shall be final with respect to determination of the fair market value ~~[.] of the land.~~ If the department of land and natural resources and the office, together with the department of Hawaiian home lands if the land is of the public land trust and sugarcane lands, are unable to agree on the selection of the third appraiser, any party may petition the ~~[presiding judge of the]~~ circuit court ~~[of the State]~~ in the county where the land is located to appoint the third appraiser.

(c) The amount due to the office shall be due and payable by the State on the date of conveyance of the land to the Hawaii housing finance and development corporation. Payment to the office may be in the form of public lands or moneys. If payment is to be in the form of public lands, the lands shall be mutually agreed upon by the department of land and natural resources and the office, and shall be of value comparable to the amount due to the office. Any monetary payment shall be an obligation of the Hawaii housing finance and development corporation. Any portion of that amount that is not paid on the date of conveyance shall be subject to simple

interest annually, established pursuant to the fifteen year treasury rate at the time of the conveyance and payable annually by the State to the office.

(d) Twenty per cent of the revenue received by the Hawaii housing finance and development corporation from commercial, industrial, or other ~~[non-residential]~~ nonresidential use of the land shall be paid annually to the office~~;~~; provided that:

- (1) The office shall not receive payment under this subsection until the Hawaii housing finance and development corporation recovers all moneys previously paid to the office for that portion of land used for commercial, industrial, or other ~~[non-residential]~~ nonresidential purposes;
- (2) If borrowed moneys are used to finance the development of land for commercial, industrial, or other ~~[non-residential]~~ nonresidential purposes, annual payments due to the office under this subsection shall be made pursuant to the following order of priority:
  - (A) The Hawaii housing finance and development corporation satisfies as a first priority the amount computed annually on the pro rata portion (not the total debt service over the life of the debt) of its total debt service on the borrowed moneys;
  - (B) The Hawaii housing finance and development corporation satisfies as a second priority its operating expense obligations ~~[(directly incurred from the development and [operating] operation of land used for commercial, industrial, or other [non-residential] nonresidential purposes)]~~ in an amount not exceeding one per cent of the revenues for the project; and
  - (C) After the first and second priorities are satisfied, the Hawaii housing finance and development corporation shall make annual payments due to the office under this subsection from any remaining revenues; and
- (3) In the event of a sale of land used for commercial, industrial, or other ~~[non-residential]~~ nonresidential purposes, the office shall receive twenty per cent of the revenue received by the Hawaii housing finance and development corporation.

(e) This section shall only apply to the Hawaii housing finance and development corporation's developments known as the villages of Leali'i, Maui, and villages of La'i'opua, Hawaii.'

SECTION 3. Section 26-14.6, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(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, ~~[201G-55, 201G-74,]~~ 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9, ~~[325-80,]~~ 353-11, 356D-54, 356D-94, 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.”

SECTION 4. Section 26-14.6, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(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, [201G-55, 201G-74,] 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9, [325-80,] 353-11, 356D-54, 356D-94, 383-71, 438-5, 445-37, 482E-4, 485A-202, 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.”

SECTION 5. Section 29-15.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) This section shall not affect sections [201G-312(b)(2),] 201H-152(b)(2), 212-7, or 523A-64.”

SECTION 6. 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~~] that 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]:
  - (A) Maintain channels, whether natural or artificial, including their exits to the ocean, in suitable condition to carry off storm waters; [and to remove]
  - (B) 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,;~~];

- (C) 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]; and~~
- (D) 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 assessments for the improvement or maintenance of districts within the county;
- (10) Except as otherwise provided, no county shall have the power to give or loan credit to, or in aid of, any person or corporation, 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]~~. In connection with these powers, each county may impose and enforce liens upon the property for the cost to the county of removing and completing the necessary work where the property 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 where the statute does not disclose an express or implied intent that the statute shall be exclusive or uniform throughout the State;
- (14) Each county shall have the power to [make]:
  - (A) Make and enforce within the limits of the county all necessary ordinances covering~~[:]~~ all [local]:
    - (i) Local police matters; ~~[all matters]~~
    - (ii) Matters of sanitation; ~~[all matters]~~

- (iii) Matters of inspection of buildings; [~~all matters~~]
- (iv) Matters of condemnation of unsafe structures, plumbing, sewers, dairies, milk, fish, and morgues; [~~all matters~~] and
- (v) Matters of the collection and disposition of rubbish and garbage; [~~and to provide~~]
- (B) Provide exemptions for homeless facilities and any other program for the homeless authorized by chapter [201G,-] 356D, for all matters under this paragraph; [~~and to appoint~~]
- (C) 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~~]
- (D) 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~~]
  - (A) Any property held for school purposes may not be disposed of without the consent of the superintendent of education; [~~no~~]
  - (B) No property bordering the ocean shall be sold or otherwise disposed of; and [~~all~~]
  - (C) 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~~];
  - (A) Community promotion and public celebrations[~~, the~~];
  - (B) The entertainment of distinguished persons as may from time to time visit the county[~~, for the~~];
  - (C) The entertainment of other distinguished persons, as well as, public officials when deemed to be in the best interest of the community[~~, and the~~]; and
  - (D) 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, 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,~~] telephone, and [~~telegraphic~~] telecommunications 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 administratively imposed civil fine shall not be collected until after an opportunity for a hearing under chapter 91. Any appeal shall be filed within thirty days from the date of the final written decision. These proceedings 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, with the exception of fees or charges for water for residential use and sewer 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, with the exception of water for residential use and sewer charges, collected by the county. The ordinance shall specify the administrative procedures for the addition of the unpaid civil fines to the eligible taxes, fees, or charges and may require hearings or other proceedings. After addition of the unpaid civil fines to the taxes, fees, or charges, the unpaid civil fines shall not become a part of any taxes, fees, or charges. The county by ordinance may condition the issuance or renewal of a license, approval, or permit for

which a fee or charge is assessed, except for water for residential use and sewer charges, on payment of the unpaid civil fines. Upon recordation of a notice of unpaid civil fines in the bureau of conveyances, the amount of the civil fines, including any increase in the amount of the fine which the county may assess, shall constitute a lien upon all real property or rights to real property belonging to any person liable for the unpaid civil fines. The lien in favor of the county shall be subordinate to any lien in favor of any person recorded or registered prior to the recordation of the notice of unpaid civil fines and senior to any lien recorded or registered after the recordation of the notice. The lien shall continue until the unpaid civil fines are paid in full or until a certificate of release or partial release of the lien, prepared by the county at the owner's expense, is recorded. The notice of unpaid civil fines shall state the amount of the fine as of the date of the notice and maximum permissible daily increase of the fine. The county shall not be required to include a social security number, state general excise taxpayer identification number, or federal employer identification number on the notice. Recordation of the notice in the bureau of conveyances shall be deemed, at such time, for all purposes and without any further action, to procure a lien on land registered in land court under chapter 501. 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 any lawful manner. 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;

- (C) Each county may impose civil fines upon any person who places graffiti on any real or personal property owned, managed, or maintained by the county. The fine may be up to \$1,000 or may be equal to the actual cost of having the damaged property repaired or replaced. The parent or guardian having custody of a minor who places graffiti on any real or personal property owned, managed, or maintained by the county shall be jointly and severally liable with the minor for any civil fines imposed hereunder. Any such fine may be administratively imposed after an opportunity for a hearing under chapter 91, but such a proceeding shall not be a prerequisite for any civil fine ordered by any court. As used in this subparagraph, "graffiti" means any unauthorized drawing, inscription, figure, or mark of any type intentionally created by paint, ink, chalk, dye, or similar substances;
- (D) At the completion of an appeal in which the county's enforcement action is affirmed and upon correction of the violation if requested by the violator, the case ~~will~~ shall be reviewed by the county agency that imposed the civil fines to determine the appropriateness of the amount of the civil fines that accrued while the appeal proceedings were pending. In its review of the amount of the accrued fines, the county agency may consider [the following]:
- (i) The nature and egregiousness of the violation[,];
  - (ii) The duration of the violation[,];
  - (iii) The number of recurring and other similar violations[,];

- (iv) Any effort taken by the violator to correct the violation[~~;~~];
- (v) The degree of involvement in causing or continuing the violation[~~;~~ reasons];
- (vi) Reasons for any delay in the completion of the appeal[~~;~~ and other]; and
- (vii) Other extenuating circumstances.

The civil fine [~~which~~] that is imposed by administrative order after this review is completed and the violation is corrected [~~is~~] shall be subject to [~~only~~] judicial review, notwithstanding any provisions for administrative review in county charters;

- (E) After completion of a review of the amount of accrued civil fine by the county agency [~~which~~] that imposed the fine, the amount of the civil fine determined appropriate, including both the initial civil fine and any accrued daily civil fine, shall immediately become due and collectible following reasonable notice to the violator. If no review of the accrued civil fine is requested, the amount of the civil fine, not to exceed the total accrual of civil fine prior to correcting the violation, shall immediately become due and collectible following reasonable notice to the violator, at the completion of all appeal proceedings;
  - (F) If no county agency exists to conduct appeal proceedings for a particular civil fine action taken by the county, then one shall be established by ordinance before the county shall impose [~~that~~] the civil fine;
- (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 [201G] 356D 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;
- (26) Any county may establish a captive insurance company pursuant to article 19, chapter 431; and
- (27) Each county shall have the power to enact and enforce ordinances regulating towing operations.”

SECTION 7. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) For purposes of this section:

“Clean and sober home” means a house that is operated pursuant to a program designed to provide a stable environment of clean and sober living conditions to sustain recovery and that is shared by unrelated adult persons who:

- (1) Are recovering from substance abuse;
- (2) Share household expenses; and
- (3) Do not require twenty-four-hour supervision, rehabilitation, or therapeutic services or care in the home or on the premises[~~;~~The];

provided that the home shall meet all applicable laws, codes, and rules of the counties and State.

“Developmentally disabled person” means a person suffering from developmental disabilities as defined under section 333F-1.

“Disabled person” means a person with a disability as defined under section 515-2.

“Drug rehabilitation home” means:

- (1) A residential treatment facility that provides a therapeutic residential program for care, diagnosis, treatment, or rehabilitation for socially or emotionally distressed persons, mentally ill persons, persons suffering from substance abuse, and developmentally disabled persons; or
- (2) A supervised living arrangement that provides mental health services, substance abuse services, or supportive services for individuals or families who do not need the structure of a special treatment facility and are transitioning to independent living;

provided that drug rehabilitation homes shall not include halfway houses or clean and sober homes.

“Elder” means an elder as defined under section [201G-1:] 356D-1.

“Halfway house” ~~[is defined as]~~ means a group living facility for people

who:

- (1) Have been released or are under supervised release from a correctional facility;
- (2) Have been released from a mental health treatment facility; or
- (3) Are receiving substance abuse or sex offender treatment; and

are housed to participate in programs that help them readjust to living in the community.

“Intermediate care facility/mental retardation-community” means [as] an identifiable unit providing residence and care for eight or fewer mentally retarded individuals. Its primary purpose is the provision of health, social, and rehabilitation services to the mentally retarded through an individually designed active treatment program for each resident. No person who is predominantly confined to bed shall be admitted as a resident of such a facility.

“Mental health treatment facility” means a psychiatric facility or special treatment facility as defined under section 334-1.

“Mentally ill person” has the same meaning as defined under section 334-1.

“Totally disabled person” means a “person totally disabled” as defined under section 235-1.

“Treatment program” means a “substance abuse program” or “treatment program”, as those terms are defined under section 353G-2.”

SECTION 8. Section 46-15.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any law to the contrary notwithstanding, any county shall have and may exercise the same powers, subject to applicable limitations, as those granted the Hawaii housing finance and development corporation pursuant to chapter [201G] 201H insofar as such powers may be reasonably construed to be exercisable by a county for the purpose of developing, constructing, and providing [~~low~~] low- and [~~moderate-income~~] moderate-income housing; provided that no county shall be empowered to cause the State to issue general obligation bonds to finance a project pursuant to this section; provided further that county projects shall be granted an exemption from general excise or receipts taxes in the same manner as projects of the Hawaii housing finance and development corporation pursuant to section [[201G-116];] 201H-36; and provided further that [~~the provisions of~~] section [201G-15] 201H-16 shall not apply to this section unless federal guidelines specifically provide local governments with that authorization and the authorization does not conflict with any state laws. The powers shall include the power, subject to applicable limitations, to:

- (1) Develop and construct dwelling units, alone or in partnership with developers;

- (2) Acquire necessary land by lease, purchase, exchange, or eminent domain;
- (3) Provide assistance and aid to a public agency or person in developing and constructing new housing and rehabilitating ~~[old]~~ existing housing for elders of ~~[low]~~ low- and ~~[moderate-income,]~~ moderate-income, other persons of ~~[low]~~ low- and ~~[moderate-income,]~~ moderate-income, and persons displaced by any governmental action, by making long-term mortgage or interim construction loans available;
- (4) Contract with any eligible bidders to provide for construction of urgently needed housing for persons of ~~[low]~~ low- and ~~[moderate-income,]~~ moderate-income;
- (5) Guarantee the top twenty-five per cent of the principal balance of real property mortgage loans, plus interest thereon, made to qualified borrowers by qualified lenders;
- (6) Enter into mortgage guarantee agreements with appropriate officials of any agency or instrumentality of the United States in order to induce those officials to commit to insure or to insure mortgages under ~~[the provisions of]~~ the National Housing Act, as amended;
- (7) Make a direct loan to any qualified buyer for the downpayment required by a private lender to be made by the borrower as a condition of obtaining a loan from the private lender in the purchase of residential property;
- (8) Provide funds for a share, not to exceed fifty per cent, of the principal amount of a loan made to a qualified borrower by a private lender who is unable otherwise to lend the borrower sufficient funds at reasonable rates in the purchase of residential property; and
- (9) Sell or lease completed dwelling units.

For purposes of this section, a limitation is applicable to the extent that it may reasonably be construed to apply to a county.”

SECTION 9. Section 46-15.2, Hawaii Revised Statutes, is amended to read as follows:

“**§46-15.2 Housing; additional county powers.** In addition and supplemental to the powers granted to counties by section 46-15.1, ~~[any]~~ a county shall have and may exercise any of the following powers:

- (1) To provide assistance and aid to persons of ~~[low]~~ low- and ~~[moderate income]~~ moderate-income in acquiring housing by ~~[providing]:~~
  - (A) Providing loans secured by a mortgage~~[-including by-acquiring such];~~
  - (B) Acquiring the loans from private lenders ~~[for which such]~~ where the county has made advance commitment to acquire [such] the loans[-and to make]; and
  - (C) Making and ~~[execute]~~ executing contracts with private lenders or a public agency for the origination and servicing of ~~[such]~~ the loans and ~~[pay]~~ paying the reasonable value of ~~[such]~~ the services;
- (2) In connection with the exercise of any powers granted under this section or section 46-15.1, to establish one or more loan programs and to issue bonds under chapter 47 or 49 to provide moneys to carry out the purposes of this section or section 46-15.1; provided that:
  - (A) If bonds are issued pursuant to chapter 47 to finance one or more loan programs, the county may establish such qualifications as it deems appropriate;

- (B) If bonds are issued pursuant to chapter 49 to finance one or more loan programs, ~~[such] the~~ loan program or programs shall comply with ~~[the provisions of part III.B]~~ part III, subpart B of chapter ~~[201G;]~~ 201H;
- (C) If bonds are issued pursuant to section 47-4 or chapter 49, any loan program established pursuant to this section or any county-owned dwelling units constructed under section 46-15.1 shall be and constitute an “undertaking” under section 49-1 and ~~[the provisions of]~~ chapter 49 shall apply to ~~[such] the~~ loan program or county-owned dwelling units to the extent applicable;
- (D) In connection with the establishment of any loan program pursuant to this section, a county may employ financial consultants, attorneys, real estate counselors, appraisers, and ~~[such]~~ other consultants as may be required in the judgment of the county and fix and pay their compensation from funds available to the county therefor;
- (E) Notwithstanding any limitation otherwise established by law, with respect to the rate of interest on any loan made under any loan program established pursuant to this section, ~~[such] the~~ loan may bear such rate or rates of interest per year as the county shall determine; provided that no loan made from the proceeds of any bonds of the county shall be under terms or conditions ~~[which]~~ that would cause the interest on ~~[such] the~~ bonds to be deemed subject to income taxation by the United States~~[-of America]~~;
- (F) Notwithstanding any limitation otherwise established by law, with respect to the amount of compensation permitted to be paid for the servicing of loans made under any loan program established pursuant to this section, a county may fix such reasonable compensation as the county may determine;
- (G) Notwithstanding the requirement of any other law, a county may establish ~~[such]~~ separate funds and accounts with respect to bonds issued pursuant to chapter 47 or 49 to provide moneys to carry out the purposes of this section or section 46-15.1 as ~~[such]~~ the county may deem appropriate;
- (H) Notwithstanding any provision of chapter 47 or 49 or of any other law, but subject to the limitations of the ~~[State Constitution;]~~ state constitution, bonds issued to provide moneys to carry out the purposes of this section or section 46-15.1 may be sold at public or private sale at ~~[such] a~~ price~~[-];~~; may bear interest at ~~[such] a~~ rate or rates per year~~[-];~~; may be payable at ~~[such] a~~ time or times~~[-];~~; may mature at ~~[such] a~~ time or times~~[-];~~; may be made redeemable before maturity at the option of the county, the holder, or both, at ~~[such] a~~ price or prices and upon ~~[such]~~ terms and conditions~~[-];~~; and may be issued in coupon or registered form, or both, ~~[as]~~ as the county may determine;
- (I) If deemed necessary or advisable, the county may designate a national or state bank or trust company within or without the State to serve as trustee for the holders of bonds issued to provide moneys to carry out the purposes of this section or section 46-15.1, and enter into a trust indenture, trust agreement, or indenture of mortgage with such trustee whereby ~~[such] the~~ trustee may be authorized to receive and receipt for, hold, and administer the proceeds of ~~[such] the~~ bonds and to apply the proceeds to the purposes for which ~~[such] the~~ bonds are issued, or

to receive and receipt for, hold, and administer the revenues and other receipts derived by the county from the application of the proceeds of [such] the bonds and to apply [such] the revenues and receipts to the payment of the principal of, or interest on [such] the bonds, or both. Any [such] trust indenture, trust agreement, or indenture of mortgage entered into with the trustee may contain any covenants and provisions as may be deemed necessary, convenient, or desirable by the county [in order] to secure [such] the bonds. The county may pledge and assign to the trustee any agreements related to the application of the proceeds of [such] the bonds and the rights of the county thereunder, including the rights to revenues and receipts derived thereunder. Upon appointment of the trustee, the director of finance of the county may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of [such] the bonds[;]; or may elect to limit the functions the director of finance performs as [such] a fiscal agent[;]; and may appoint [the] a trustee to serve as the fiscal agent[;]; and may authorize and empower the trustee to perform [such] the functions with respect to [such] payment, purchase, registration, transfer, exchange, and redemption, as the director of finance deems necessary, advisable, or expedient, including, without limitation, the holding of [such] the bonds and coupons [which] that have been paid and the supervision and conduction or the destruction thereof in accordance with law;

- (J) If a trustee is not appointed to collect, hold, and administer the proceeds of bonds issued to provide moneys to carry out the purposes of this section or section 46-15.1, or the revenues and receipts derived by the county from the application of the proceeds of [such] the bonds, [all] as provided in subparagraph (I), the director of finance of [such] the county may hold [such] the proceeds or revenues and receipts[; as the case may be,] in a separate account in the treasury of the county, to be applied solely to the carrying out of the ordinance, trust indenture, trust agreement, or indenture of mortgage, if any, authorizing or securing [such] the bonds; and
- (K) Any law to the contrary notwithstanding, the investment of funds held in reserves and sinking funds related to bonds issued to provide moneys to carry out the purposes of this section or section 46-15.1 shall comply with [the provisions of] section [201G-167;] 201H-77; provided that any investment [which] that requires approval by the county council pursuant to section 46-48 or 46-50 [must] shall first be approved by the county council[;];
- (3) To acquire [such] policies of insurance and enter into [such] banking arrangements as [such] the county may deem necessary [in order] to better secure bonds issued to provide money to carry out the purposes of this section or section 46-15.1, including[;] without limitation[;] contracting for a support facility or facilities as may be necessary with respect to bonds issued with a right of the holders to put [such] the bonds and contracting for interest rate swaps; and
- (4) To do any and all other things necessary or appropriate to carry out the purposes and exercise the powers granted in section 46-15.1 and this section.”

SECTION 10. Section 53-17, Hawaii Revised Statutes, is amended to read as follows:

“§53-17 Bonds of agency to be legal investments. Bonds issued by a redevelopment agency in connection with one or more redevelopment plans or redevelopment projects pursuant to this part shall be legal investments and security for public deposits to the same extent and for the same public officers and bodies, political subdivisions, persons, companies, corporations, associations, banks, institutions, and fiduciaries as bonds or obligations issued by the Hawaii housing finance and development corporation under chapter [201G] 201H in connection with slum clearance and housing projects.”

SECTION 11. Section 104-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter shall apply to every contract in excess of \$2,000 for construction of a public work project to which a governmental contracting agency is a party; provided that this chapter shall not apply to experimental and demonstration housing developed pursuant to section 46-15 or housing developed pursuant to chapter [201G] 201H if the cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.

For the purposes of this subsection:

“Contract” includes but is not limited to any agreement, purchase order, or voucher in excess of \$2,000 for construction of a public work project.

“Governmental contracting agency” includes any person or entity that causes, either directly or indirectly, the building or development of a public work.

“Party” includes eligible bidders for and eligible developers of any public work and any housing under chapter [201G;] 201H; provided that this subsection shall not apply to any housing developed under section 46-15 or chapter [201G] 201H if the entire cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.

“Public work” means any project, including development of any housing pursuant to section 46-15 or chapter [201G;] 201H, and development, construction, renovation, and maintenance related to refurbishment of any real or personal property, where the funds or resources required to undertake the project are to any extent derived, either directly or indirectly, from public revenues of the State or any county, or from the sale of securities or bonds whose interest or dividends are exempt from state or federal taxes.”

SECTION 12. Section 171-18.5, Hawaii Revised Statutes, is amended to read as follows:

“§171-18.5 Sugarcane lands conveyed for the development of housing projects. (a) This section applies to the amount to which the department of Hawaiian home lands is entitled pursuant to [~~Article~~] article XII, [~~Section~~] section 1 of the [~~State Constitution~~] state constitution, from land as designated in subsection (e) previously cultivated as sugarcane land under any provision of law [~~which~~] that is conveyed by the department to the Hawaii housing finance and development corporation for the development of housing projects as defined under section [201G-1;] 201H-1. The amount to which the department of Hawaiian home lands is entitled shall be determined by multiplying the fair market value of the land by thirty per cent. For the purpose of this section, [~~“fair~~];

“Fair market value” means the amount of money [~~which~~] that a purchaser willing but not obliged to buy the land would pay to an owner willing but not obliged

to sell it, taking into consideration the highest and best use of the land. [~~For the purpose of this section, “highest]~~

“Highest and best use” means the most profitable, probable, and legal use to which the land can be put.

(b) Fair market value shall be determined on a per acre basis pursuant to appraisals performed in conformance with the uniform standards of professional appraisal practice as adopted by the department of commerce and consumer affairs, not more than ninety days before the conveyance of the land to the Hawaii housing finance and development corporation. The appraisals shall be performed by two disinterested appraisers each of whose services shall be contracted by the department and the department of Hawaiian home lands, respectively. If the land is [~~of~~] sugarcane lands and of the public land trust, as defined in section 10-2, the department of Hawaiian home lands and the office of Hawaiian affairs shall contract the services of one appraiser. The parties shall contract the services of the two appraisers within thirty days after the department gives written notice to the department of Hawaiian home lands, together with the office of Hawaiian affairs if the land is [~~of~~] sugarcane lands and of the public land trust, of the proposed conveyance of the land to the Hawaii housing finance and development corporation.

If any party fails or refuses to contract the services of an appraiser, then the other party may petition [~~the presiding judge of~~] the circuit court [~~of the State~~] in the county where the land is located to appoint the other of the two appraisers. If the two appraisers are unable to agree on a fair market value, then within thirty days thereafter, the department and the department of Hawaiian home lands, together with the office of Hawaiian affairs if the land is [~~of~~] sugarcane lands and of the public land trust, shall contract for the services of a mutually [~~selected~~] agreed upon third appraiser and the decision of the majority of the appraisers shall be final with respect to determination of the fair market value[.] of the land. If the department and the department of Hawaiian home lands, together with the office of Hawaiian affairs if the land is [~~of~~] sugarcane lands and of the public land trust, are unable to agree on the selection of the third appraiser, any party may petition [~~the presiding judge of~~] the circuit court [~~of the State~~] in the county where the land is located to appoint the third appraiser.

(c) The amount due to the department of Hawaiian home lands shall be due and payable by the State on the date of conveyance of the land to the Hawaii housing finance and development corporation. Payment to the department of Hawaiian home lands may be in the form of public lands or moneys. If payment is to be made in the form of public lands, the lands shall be mutually agreed upon by the department of land and natural resources and the department of Hawaiian home lands, and shall be of value comparable to the amount due to the department of Hawaiian home lands. Any monetary payment shall be an obligation of the Hawaii housing finance and development corporation. Any portion of that amount that is not paid on the date of conveyance shall be subject to simple interest annually, established pursuant to the fifteen year treasury rate at the time of the conveyance and payable annually by the State to the department of Hawaiian home lands.

(d) Thirty per cent of the revenue received by the Hawaii housing finance and development corporation from commercial, industrial, or other [~~non-residential~~] nonresidential use of the land shall be paid annually to the department of Hawaiian home lands[.]; provided that:

- (1) The department of Hawaiian home lands shall not receive payment under this subsection until the Hawaii housing finance and development corporation recovers all moneys previously paid to the department of Hawaiian home lands for that portion of land used for commercial, industrial, or other [~~non-residential~~] nonresidential purposes;

- (2) If borrowed moneys are used to finance the development of land for commercial, industrial, or other ~~[non-residential]~~ nonresidential purposes, annual payments due to the department of Hawaiian home lands under this subsection shall be made pursuant to the following order of priority:
  - (A) The Hawaii housing finance and development corporation satisfies as a first priority the amount computed annually on the pro rata portion (not the total debt service over the life of the debt) of its total debt service on the borrowed moneys;
  - (B) The Hawaii housing finance and development corporation satisfies as a second priority its operating expense obligations ~~[ç]directly incurred from the development and operating of land used for commercial, industrial, or other [non-residential] nonresidential purposes[ç]~~ in an amount not exceeding one per cent of revenues; and
  - (C) After the first and second priorities are satisfied, the Hawaii housing finance and development corporation shall make annual payments due to the department of Hawaiian home lands under this subsection from any remaining revenues; and
- (3) In the event of a sale of land used for commercial, industrial, or other ~~[non-residential]~~ nonresidential purposes, the department of Hawaiian home lands shall receive thirty per cent of the revenue received by the Hawaii housing finance and development corporation.

(e) This section shall only apply to the Hawaii housing finance and development corporation’s developments known as the villages of Leali’i, Maui, and villages of La’i’opua, Hawaii.”

SECTION 13. Section 171-19.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Upon fulfillment of the purposes of this section, any unexpended or unencumbered funds appropriated by the legislature or remaining in the infrastructure development fund as of the close of business on December 31, 2004, shall not lapse into that fund or to the credit of the general fund, but shall be transferred to the credit of the Kikala-Keokea housing revolving fund established in section ~~[201G-170.5]~~ 201H-81 as of that date; provided that any unexpended or unencumbered moneys that were provided by the office of Hawaiian affairs and deposited into the infrastructure development fund for the purpose of infrastructure development shall be refunded to the office of Hawaiian affairs upon the completion of the fund’s intended purpose. No funds shall be transferred until all funding commitments entered into by the department of land and natural resources to complete the design and construction of infrastructure improvements have been executed.”

SECTION 14. Section 201H-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For the purpose of aiding and cooperating in the planning, construction, and operation of housing projects located within their respective territorial boundaries, any state or county agency, upon those terms, with or without consideration, as it determines, may:

- (1) Dedicate, grant, sell, convey, or lease any of its property or grant easements, licenses, or any other rights or privileges therein to the corporation or to the federal government;
- (2) To the extent that it is within the scope of the agency:

- (A) Cause the services customarily provided by the agency to be rendered for the benefit of housing projects and the occupants thereof;
  - (B) Provide and maintain parks ~~[and]~~, sewage, water, lights, and other facilities adjacent to or in connection with housing projects;
  - (C) Open, close, pave, install, or change the grade of streets, roads, roadways, alleys, sidewalks, or other related facilities; and
  - (D) Change the map of a political subdivision or plan, replan, zone, or rezone any part of a political subdivision;
- (3) Enter into agreements with the corporation with respect to the exercise of their powers relating to the repair, closing, or demolition of unsafe, unsanitary, or unfit dwellings;
  - (4) Employ, notwithstanding any other law as to what constitutes legal investments, any available funds belonging to them or within their control, including funds derived from the sale or furnishing of property or facilities to the corporation, in the purchase of bonds or other obligations of the corporation ~~[to the extent provided under section 201G-161]~~; and exercise all the rights of any holder of the bonds or other obligations;
  - (5) Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, and construction of ~~[such]~~ those housing projects; and
  - (6) Enter into contracts with the corporation or the federal government for any period agreeing to exercise any of the powers conferred hereby or to take any other action in aid of ~~[such]~~ those housing projects.

In connection with the exercise of this power, any political subdivision may incur the entire expense of any ~~[such]~~ public improvements located within its territorial boundaries without assessment against abutting property owners.

For the purpose of aiding and cooperating in the planning, construction, and operation of housing projects, the department of land and natural resources, the Hawaiian homes commission, and any other agency of the State having power to manage or dispose of its public lands, with the approval of the governor and with or without consideration, may grant, sell, convey, or lease, for any period, any parts of ~~[such]~~ those public lands, without limit as to area, to the corporation or to the federal government.

Any law to the contrary notwithstanding, any gift, grant, sale, conveyance, lease, or agreement provided for in this section may be made by the state or county government without appraisal, public notice, advertisement, or public bidding.

If at any time title to, or possession of, any housing project is held by any governmental agency authorized by law to engage in the development or administration of ~~[low-rent]~~ low-income housing or slum clearance projects, any agreement made under this chapter relating to the project shall inure to the benefit of and may be enforced by that governmental agency.

Insofar as this subsection is inconsistent with the provisions of any other law, this subsection shall be controlling.”

SECTION 15. Section 205-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any department or agency of the State, any department or agency of the county in which the land is situated, or any person with a property interest in the land sought to be reclassified, may petition the land use commission for a change in the boundary of a district. This section applies to all petitions for changes in district boundaries of lands within conservation districts, lands designated or sought to be

designated as important agricultural lands, and lands greater than fifteen acres in the agricultural, rural, and urban districts, except as provided in section [201G-118:] 201H-38. The land use commission shall adopt rules pursuant to chapter 91 to implement section [201G-118:] 201H-38.”

SECTION 16. Section 206-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a definition for “federal government” to read:

“‘Federal government’ shall have the same meaning as set forth in section 201H-1.”

2. By amending the definitions of “government” and “federal government” to read:

“‘Government’ [and “federal government”] shall have the respective meaning set forth in section [201G-1:] 201H-1.”

3. By amending the definition of “lands” to read:

“‘Lands’ means either undeveloped lands or land together with improvements and appurtenances and includes real property as defined in section [201G-1:] 201H-1. All lands owned by the State [or], any political subdivision, or the federal government are “government lands”. All other lands are “private lands”.”

SECTION 17. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter shall not apply to the following persons:

- (1) Public service companies [(as that term is defined in section 239-2)], with respect to the gross income, either actual gross income or gross income estimated and adjusted, [which] that is included in the measure of the tax imposed by chapter 239;
- (2) Public utilities owned and operated by the State or any county, or other political subdivision thereof;
- (3) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, prepaid legal services, or other benefits to the members of [such] the societies, orders, or associations, and to their dependents;
- (4) Corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended, as well as that of operating a prepaid legal services plan, as well as that of operating or managing a homeless facility, or any other program for the homeless authorized under [chapter 201G, part IV:] part VII of chapter 356D;
- (5) Business leagues, chambers of commerce, boards of trade, civic leagues, agricultural and horticultural organizations, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare [which] that shall include the operation of a prepaid legal service plan, and from which no profit inures to the benefit of any private stockholder or individual;
- (6) Hospitals, infirmaries, and sanitarium;

- (7) Cooperative associations incorporated under chapter 421 or Code section 521 cooperatives which fully meet the requirements of section 421-23, except Code section 521 cooperatives need not be organized in Hawaii; provided that:
- (A) The exemption shall apply only to the gross income derived from activities ~~[which]~~ that are pursuant to purposes and powers authorized by chapter 421, except those provisions pertaining to or requiring corporate organization in Hawaii do not apply to Code section 521 cooperatives;
  - (B) The exemption shall not relieve any person who receives any proceeds of sale from the association of the duty of returning and paying the tax on the total gross proceeds of the sales on account of which the payment was made, in the same amount and at the same rate as would apply thereto had the sales been made directly by the person, and all ~~[such]~~ those persons shall be so taxable; and
  - (C) As used in this paragraph, "section 521 cooperatives" mean associations ~~[which]~~ that qualify as a cooperative under section 521 (with respect to exemption of farmers' cooperatives from tax) of the Internal Revenue Code of 1986, as amended;
- (8) Persons affected with Hansen's disease and kokuas, with respect to business within the county of Kalawao;
- (9) Corporations, companies, associations, or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual; ~~[provided that the exemption shall apply only to the activities of [such] those persons in the conduct of cemeteries and shall not apply to any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of [such] those persons];~~ and
- (10) Nonprofit shippers associations operating under part 296 of the Civil Aeronautics Board Economic Regulations."

SECTION 18. Section 237-29, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) All gross income received by any qualified person or firm for the planning, design, financing, construction, sale, or lease in the State of a housing project ~~[which]~~ that has been certified or approved under section ~~[201G-116]~~ 201H-36 shall be exempt from general excise taxes.

(b) All gross income received by a nonprofit or a limited distribution mortgagor for a ~~[low] low-~~ and ~~[moderate-income] moderate-income~~ housing project certified or approved under section ~~[201G-116]~~ 201H-36 shall be exempt from general excise taxes."

SECTION 19. Section 247-7, Hawaii Revised Statutes, is amended to read as follows:

**"§247-7 Disposition of taxes.** All taxes collected under this chapter shall be paid into the state treasury to the credit of the general fund of the State, to be used and expended for the purposes for which the general fund was created and exists by law; provided that of the taxes collected each fiscal year:

- (1) Ten per cent shall be paid into the land conservation fund established pursuant to section 173A-5;

- (2) Thirty per cent shall be paid into the rental housing trust fund established by section [201G-432;] 201H-202; and
- (3) Twenty-five per cent shall be paid into the natural area reserve fund established by section 195-9; provided that the funds paid into the natural area reserve fund shall be annually disbursed by the department of land and natural resources in the following priority:
  - (A) To natural area partnership and forest stewardship programs after joint consultation with the forest stewardship committee and the natural area reserves system commission;
  - (B) Projects undertaken in accordance with watershed management plans pursuant to section 171-58 or watershed management plans negotiated with private landowners, and management of the natural area reserves system pursuant to section 195-3; and
  - (C) The youth conservation corps established under chapter 193.’’

SECTION 20. Section 321-15.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The director shall adopt rules regarding adult residential care homes in accordance with chapter 91 that shall be designed to:

- (1) Protect the health, safety, and civil rights of persons residing in facilities regulated;
- (2) Provide for the licensing of adult residential care homes; provided that the rules shall allow group living in two categories of adult residential care homes as licensed by the department of health:
  - (A) Type I allowing five or fewer residents; provided that up to six residents may be allowed at the discretion of the department to live in a type I home; provided further that the primary caregiver or home operator is a certified nurse aide who has completed a state-approved training program and other training as required by the department; and
  - (B) Type II allowing six or more residents, including but not limited to the mentally ill, elders, persons with disabilities, the developmentally disabled, or totally disabled persons who are not related to the home operator or facility staff;
- (3) Comply with applicable federal laws and regulations of Title XVI of the Social Security Act, as amended; and
- (4) Provide penalties for the failure to comply with any rule.

For the purposes of this subsection:

“Developmentally disabled” means a person with developmental disabilities as defined under section 333F-1.

“Elder” has the same meaning as defined under section [201G-1.] 356D-1.

“Mentally ill” means a mentally ill person as defined under section 334-1.

“Persons with disabilities” means persons having a disability under section 515-2.

“Totally disabled person” has the same meaning as a person totally disabled as defined under section 235-1.’’

SECTION 21. Section 346-152, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Nothing in this part shall be construed to include:

- (1) A person caring for children related to the caregiver by blood, marriage, or adoption;

- (2) A person, group of persons, or facility caring for a child less than six hours a week;
- (3) A kindergarten, school, or program licensed by the department of education;
- (4) A program that provides exclusively for a specialized training or skill development for children, including[;] but not limited to[;] programs providing [sueh] activities such as athletic sports, foreign language, the Hawaiian language, dance, drama, music, or martial arts;
- (5) A multiservice organization or community association, duly incorporated under the laws of the State[,-which] that operates for the purpose of promoting recreation, health, safety, or social group functions for eligible pupils in public and private schools through seventeen years of age;
- (6) Programs for children four years of age and older[,-which] that operate for no more than two consecutive calendar weeks in a three-month period;
- (7) A provider agency operating or managing a homeless facility or any other program for homeless persons authorized under part [IV] VII of chapter [201G;] 356D;
- (8) After-school, weekend, and summer recess programs conducted by the department of education pursuant to section 302A-408;
- (9) Child care programs for children five years of age and older conducted by counties pursuant to section 302A-408; provided that each county [adopt] adopts rules for its programs;
- (10) Any person who enters a home in a child caring capacity and only cares for children who are of that household; and
- (11) A person caring for two or fewer children unrelated to the caregiver by blood, marriage, or adoption.”

SECTION 22. Section 467-2, Hawaii Revised Statutes, is amended to read as follows:

“**§467-2 Exceptions.** The provisions requiring licensing as a real estate broker or salesperson shall not apply:

- (1) To any 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 [sueh] the real estate; provided that the term “owner” as used in this paragraph shall not include any individual engaged in the business of real estate development or brokerage or include 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 individual “acting under power of attorney” as used in this paragraph shall not include any individual engaged in the business of real estate development or brokerage or 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 individual who leases, offers to lease, rents, or offers to rent, any real estate or the improvements thereon of which the 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 part [IV] VII of chapter [201G:] 356D.”

SECTION 23. Section 480-11, Hawaii Revised Statutes, is amended to read as follows:

**“§480-11 Exemption of certain cooperative organizations; insurance transactions; approved mergers of federally regulated companies; homeless facility and program donors and provider agencies.** (a) Nothing in this chapter shall be construed to forbid the existence and operation of fishery, agricultural, or consumer cooperative organizations or associations instituted for the purpose of mutual help[, and which] that are organized and operated under chapter 421[, 422,] or 421C, or [which] that conform and continue to conform to the requirements of the Capper-Volstead Act (7 U.S.C. 291 and 292); provided that if any [such] organization or association monopolizes or restrains trade or commerce in any section of this State to [such] an extent that the price of any fishery, agricultural, or consumer product is unduly enhanced by reason thereof, this chapter shall apply to [such] those acts.

(b) This chapter shall not apply to any transaction in the business of insurance [which] that is in violation of any section of this chapter if the transaction is expressly permitted by the insurance laws of this State; [and] provided [further] that nothing in this section shall render this chapter inapplicable to any agreement to boycott, coerce, or intimidate or any act of boycott, coercion, or intimidation.

(c) This chapter shall not apply to mergers of companies where [such] the mergers are approved by the federal regulatory agency [which] that has jurisdiction and control over [such] the mergers.

(d) This chapter shall not apply to:

- (1) Any provider agencies or donors under [~~chapter 201G, part IV;~~] part VII of chapter 356D;
- (2) Any provider agency or donor method or act that complies with [~~chapter 201G, part IV;~~] part VII of chapter 356D; or
- (3) Any cooperation or agreement authorized pursuant to rule under [~~chapter 201G, part IV.~~] part VII of chapter 356D.”

SECTION 24. Section 514A-14.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

**“(c) This section [does] shall not apply:**

- (1) To apartments developed under chapter [201G:] 201H or 356D;
- (2) To apartments in a mixed-use project developed under chapter 206E that has a shared parking program approved by the Hawaii community development authority; provided that such a program shall require the availability of the use of not less than one parking space per apartment; and
- (3) To apartments designated in the declaration of condominium property regime for hotel, time share, transient vacation rental, or commercial use.”

SECTION 25. Section 514A-108, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**“(a) This part shall not apply to a project developed pursuant to section 46-15 or 46-15.1, or chapter 53, [201G, or] 201H, 206[;], or 356D; provided that the developer of the project may elect to be subject to this part through a written notification to the commission.”**

SECTION 26. Section 514B-99.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This subpart shall not apply to:

- (1) A project developed pursuant to section 46-15 or 46-15.1, or chapter 53, ~~[201G, or] 201H, 206[;], or 356D;~~ provided that the developer of the project may elect to be subject to this subpart through a written notification to the commission;
- (2) Condominium projects where the developer conveys all of the residential units in the project to a spouse, or family members related by blood, descent or adoption; and
- (3) Condominium projects consisting of two or fewer units.”

SECTION 27. Section 516-1, Hawaii Revised Statutes, is amended by amending the definition of “corporation” to read as follows:

““Corporation” means the Hawaii housing finance and development corporation created by chapter ~~[H]201H[H].~~”

SECTION 28. Section 516-31, Hawaii Revised Statutes, is amended to read as follows:

**“§516-31 Disposition by lease.** The Hawaii housing finance and development corporation may lease any of the residential lots in a development tract at ~~[such] lease rentals and upon [such] terms and conditions as it may determine. The leases shall be subject to all of the rights of lessees enumerated in part III [of this chapter].~~ The corporation ~~[may],~~ in its discretion, may utilize any of the residential lots and rent out the same for periods of twenty years or less for the purposes set forth in chapter ~~[H]201H[H],~~ or for any other purpose, all upon ~~[such] terms and conditions as the corporation may determine.~~”

SECTION 29. Section 516-104, Hawaii Revised Statutes, is amended to read as follows:

**“§516-104 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 any revenue bonds, in accordance with section ~~[201G-167;] 201H-77;~~ 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.”

SECTION 30. 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 [sueh] that employment or by a pensioner of the owner or landlord or occupancy for a period of up to four years subsequent thereto, pursuant to a plan for the transfer of the dwelling unit or the property of which it is a part to the occupant;
- (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 201G, part IV;~~] part VII of chapter 356D;
- (10) Residence or occupancy in a public housing project or complex directly controlled, owned, or managed by the Hawaii public housing authority pursuant to the federal low rent public housing program; or
- (11) Residence or occupancy in a transitional facility for abused family or household members.”

## PART II

SECTION 31. During the regular session of 2006, the legislature enacted a number of measures amending chapter 201G, Hawaii Revised Statutes, the housing and community development corporation of Hawaii. Chapter 201G, Hawaii Revised Statutes, was repealed by Act 180, Session Laws of Hawaii 2006, and the functions and duties of the housing finance and development corporation of Hawaii were divided between two new agencies: The Hawaii housing finance and development corporation (chapter 201H, Hawaii Revised Statutes) and the Hawaii public housing authority (chapter 356D, Hawaii Revised Statutes).

The purpose of this part is to amend chapters 201H and 356D, Hawaii Revised Statutes, to incorporate the amendments that were made to the now repealed chapter 201G, Hawaii Revised Statutes, by Acts 24, 100, 179, and 217, Session Laws of Hawaii 2006.

SECTION 32. Section 201H-38, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The corporation may develop on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of, housing projects that shall be exempt from all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units thereon; provided that:

- (1) The corporation finds the housing project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
- (2) The development of the proposed housing project does not contravene any safety standards, tariffs, or rates and fees approved by the public

- utilities commission for public utilities or of the various boards of water supply authorized under chapter 54;
- (3) The legislative body of the county in which the housing project is to be situated shall have approved the project~~[:]~~ with or without modifications:
- (A) The legislative body shall approve, approve with modification, or disapprove the project by resolution within forty-five days after the corporation has submitted the preliminary plans and specifications for the project to the legislative body. If on the forty-sixth day a project is not disapproved, it shall be deemed approved by the legislative body;
- (B) No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken by them in reviewing, approving, modifying, or disapproving the plans and specifications; and
- (C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the corporation or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and the maps and plans shall be accepted for registration or recordation by the land court and registrar; and
- (4) The land use commission shall approve, approve with modification, or disapprove a boundary change within forty-five days after the corporation has submitted a petition to the commission as provided in section 205-4. If, on the forty-sixth day, the petition is not disapproved, it shall be deemed approved by the commission.”

SECTION 33. Section 201H-202, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

“(i) For the period commencing July 1, 2005, through June 30, ~~[2007;]~~ 2009, the fund may be used to provide grants for rental units set aside for persons and families with incomes at or below thirty per cent of the median family income in any project financed in whole or in part by the fund in proportion of those units to the total number of units in the project. At the conclusion of the period described in this subsection, the corporation shall report to the legislature on the number and use of grants provided and whether the grants were an effective use of the funds for purposes of developing rental housing for families at or below thirty per cent of the median family income.”

SECTION 34. Section 356D-3, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§356D-3]]~~ **Board; establishment, functions, duties.** (a) There is created a board of directors consisting of ~~[nine]~~ eleven members, of whom ~~[seven]~~ nine shall be public members appointed by the governor as provided in section 26-34. Public members shall be appointed from each of the counties of Honolulu, Hawaii, Maui, and Kauai. At least one public member shall be a person who is directly

assisted by the authority under the federal low-rent public housing or federal section 8 tenant-based housing assistance payments program while serving on the board. One public member shall be an advocate for low-income or homeless persons. One public member shall be a person with a disability or an advocate for persons with disabilities. The public members of the board shall serve four-year staggered terms; provided that the initial appointments shall be as follows: four members shall be appointed for four years; three members shall be appointed for three years; and two members shall be appointed for two years. The director of human services, or a designated representative, and a representative of the governor's office, shall be ex officio voting members. The authority shall be headed by the board.

(b) The board of directors shall select a chairperson and vice-chairperson from among its members. The director of human services and the governor's representative shall be ineligible to serve as chairperson of the board.

(c) Seven members shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the authority. The members shall receive no compensation for services, but shall be entitled to necessary expenses, including travel expenses, incurred in the performance of their duties.

SECTION 35. Section 356D-44, Hawaii Revised Statutes, is amended to read as follows:

**“[§356D-44] Administration of state low-income public housing projects and programs.** (a) The authority ~~may~~ shall construct, develop, and administer property or housing for the purpose of state low-income public housing projects and programs.

(b) The authority ~~may~~ shall offer any decommissioned low-income public housing project, except for federal housing projects, to nonprofit or for-profit organizations or government agencies for rehabilitation into emergency or transitional shelter facilities for the homeless or rehabilitation into rental units that set aside at least fifty per cent of the units to persons or families with incomes at or below fifty per cent of the area median family income<sup>[=]</sup>; provided that:

- (1) The housing project is wholly owned by the State on either state-owned or ceded lands;
- (2) The authority has determined that the housing project is not eligible for rehabilitation using the authority's current resources; and
- (3) The nonprofit or for-profit organization or government agency demonstrates expertise in rehabilitation of housing projects and has community, public, and private resources to substantially pay for the rehabilitation.

The land and improvements may be leased to the nonprofit or for-profit organization or government agency for a period not to exceed ninety-nine years for a sum of \$1 per year.

(c) State low-income housing projects shall be subject to chapter 521.

(d) The authority shall adopt necessary rules in accordance with chapter 91, including the establishment and collection of reasonable fees for administering the state low-income housing projects or programs and to carry out any state program under subsection (a).”

SECTION 36. Section 356D-91, Hawaii Revised Statutes, is amended by amending the definitions of “public housing project” and “tenant” to read as follows:

““Public housing project” or “complex” means a low-income federally assisted housing project [directly] as established by the United States Housing Act of 1937, as amended, and controlled, owned, developed, or managed by the authority pursuant to [part H.] the federal low-rent public housing program.

“Tenant” means any person occupying a [~~room,~~] dwelling [~~unit,~~] accommodation or living quarters[~~-or space~~] in any public housing project, under or by virtue of any tenancy, lease, [~~license, or permit~~] or rental agreement under or from the authority.”

SECTION 37. Section 356D-92, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) If the tenant meets with the authority as provided for in subsection (b), the authority shall decide, based upon the facts discussed at the meeting, what action is appropriate to address the tenant’s case. The authority shall notify the tenant of its decision in writing. If the authority decides to proceed with an action to terminate the tenancy, the authority shall further inform the tenant in the same written notice that:

- (1) The tenant has [~~thirty days~~] ten business days from receipt of this notice to request a grievance hearing; and
- (2) If the tenant fails to request a grievance hearing within [~~thirty days,~~] ten business days, the authority has the right to proceed with the eviction hearing pursuant to section 356D-93.”

SECTION 38. Act 100, Session Laws of Hawaii 2006, is amended by amending section 2 to read as follows:

“SECTION 2. Chapter [~~201G,~~] 356D, Hawaii Revised Statutes, is amended by adding a new section in part [~~IV~~] VII to be appropriately designated and to read as follows:

“[~~§201G-~~] §356D- **Temporary emergency housing.** (a) In addition to any other duties prescribed by law, the [~~administration~~] authority shall develop, in consultation with the four counties, a procedure for identifying locations that shall be used for temporary emergency shelters for homeless individuals and families. The [~~administration~~] authority shall actively partner with and monitor the efforts of the counties.

(b) Each county shall be responsible for partnering with nonprofit organizations to locate, designate, and maintain the areas that shall be used for temporary emergency shelters. The designated locations may include private, county, and state lands and federal lands at Kalaeloa.

(c) The [~~administration~~] authority shall pursue and secure Barbers Point Barracks as temporary housing for homeless families and individuals.

(d) The [~~administration~~] authority shall submit an annual report to the legislature detailing the activities and outcomes under this section no later than twenty days prior to the convening of each regular session beginning with the [~~2007~~] 2008 regular session.””

### PART III

SECTION 39. The purpose of this part is to make other conforming amendments to the Hawaii Revised Statutes and Session Laws of Hawaii to implement the repeal of the housing and community development corporation of Hawaii and the transfer of its powers and functions to the Hawaii housing finance and development corporation and the Hawaii public housing authority.

SECTION 40. Section 201H-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Elderly housing project” means a housing project that is intended and operated as housing that satisfies the definition of housing for older persons under 42 United States Code section 3607(b)(2).”

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SECTION 41. Section 26-14, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The ~~[housing and community development corporation of Hawaii]~~ Hawaii public housing authority and the Hawaii state commission on the status of women are placed within the department of human services for administrative purposes only.”

SECTION 42. Section 26-18, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The following are placed in the department of business, economic development, and tourism for administrative purposes as defined by section 26-35: Aloha Tower development corporation, Hawaii community development authority, Hawaii housing finance and development corporation, high technology development corporation, land use commission, natural energy laboratory of Hawaii authority, and any other boards and commissions as shall be provided by law.

The department of business, economic development, and tourism shall be empowered to establish, modify, or abolish statistical boundaries for cities, towns, or villages in the State and shall publish, as expeditiously as possible, an up-to-date list of cities, towns, and villages after changes to statistical boundaries have been made.”

SECTION 43. Section 91-13.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Notwithstanding any other law to the contrary, any agency that reviews and comments upon an application for a business or development-related permit, license, or approval for a housing project developed under section ~~[201G-118]~~ 201H-38 shall respond within forty-five days of receipt of the application, or the application shall be deemed acceptable as submitted to the agency.”

SECTION 44. Section 257-7, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]§257-7[H]~~ **Assets; disregarded.** The department of human services ~~[and the housing and community development corporation of Hawaii]~~ shall collaborate with individual development account fiduciary organizations to ensure that the accounts as provided for in this chapter, including any earned interest, shall be disregarded in the determination of benefits or eligibility for services account holders may receive from ~~[said agencies]~~ the department of human services as allowed by federal and state laws and regulations.

The department of human services shall establish rules to be aligned with individual development accounts ~~[after June 28, 1999].~~”

SECTION 45. Section 302A-831, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]§302A-831[H]~~ **Purpose.** The purpose of this subpart is to transfer the administration of the teachers’ housing program from the ~~[housing and community development corporation of Hawaii]~~ Hawaii public housing authority to the department of education. This subpart also establishes a revolving fund for the accounting and control of receipts and disbursements in connection with the department of education’s functions of planning, constructing, repairing, maintaining, and operating housing programs for teachers employed and assigned by the department of education.”

SECTION 46. Act 291, Session Laws of Hawaii 1980, as amended by Act 304, Session Laws of Hawaii 1996, as amended by Act 185, Session Laws of Hawaii 2004, is amended by amending section 11 to read as follows:

“SECTION 11. **Issuance of revenue bond; amount authorized.** Revenue bonds may be issued by the [~~housing and community development corporation of Hawaii~~] Hawaii housing finance and development corporation pursuant to part III, chapter 39 and subpart [B] A of part III of chapter [201G;] 201H, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$300,000,000, at such times and in such amounts as the [~~housing and community development corporation of Hawaii~~] Hawaii housing finance and development corporation deems advisable for the purpose of undertaking and maintaining any of the housing loan programs under subpart [B] A of part III of chapter [201G;] 201H, Hawaii Revised Statutes, relating to the funding or purchasing of eligible project loans.”

SECTION 47. Act 274, Session Laws of Hawaii 1998, is amended by amending section 1 to read as follows:

“SECTION 1. The provisions of section [201G-120(a);] 201H-40(a), Hawaii Revised Statutes, relating to the corporation’s requirement to first offer not less than ten per cent of the total number of units in single-family projects consisting of fifty units or more sponsored by the [~~housing and community development corporation of Hawaii~~] Hawaii housing finance and development corporation to owner-builders or nonprofit organizations assisting owner-builders in construction of units, shall not apply to the [~~housing and community development corporation of Hawaii’s~~] Hawaii housing finance and development corporation’s current or future development in Kapolei, Oahu, consisting of approximately [888] eight hundred eighty-eight acres, known as the Villages of Kapolei.”

SECTION 48. Act 100, Session Laws of Hawaii 2001, is amended by amending sections 1 and 2 to read as follows:

“SECTION 1. The purpose of this Act is to authorize the [~~housing and community development corporation of Hawaii;~~] Hawaii housing finance and development corporation, in coordination with the respective counties, to establish the affordable housing requirements for undeveloped parcels in the villages of Kapolei, Oahu; villages of Leiali‘i, Maui; and villages of La‘i‘opua, Hawaii, irrespective of any other law, rule, or ordinance to the contrary.

SECTION 2. Notwithstanding Act 15, Session Laws of Hawaii 1988, the affordable housing requirements for the undeveloped parcels in the villages of Kapolei, Oahu, villages of Leiali‘i, Maui, and villages of La‘i‘opua, Hawaii, shall be established by agreement between the [~~housing and community development corporation of Hawaii~~] Hawaii housing finance and development corporation and the respective counties.

The undeveloped parcels are further defined as follows:

Villages of Kapolei: Tax map key numbers 9-1-16:35, 36, 37, 38, 39, 58, 59, 64, 76, 82, 88, 90, 93; 9-1-79:1 through 35, 54, 129 through 134; 9-1-92:37 through 66, 104; 9-1-104:1 through 88; and 9-1-105:1 through 117.

Villages of Leiali‘i: Tax map key numbers 4-5-21:3, por. 4, 18, 19, por. 20, por. 21, por. 22; and 4-5-36:1 through 14, 55, through 61, 69 through 104.

Villages of La‘i‘opua: Tax map key numbers 7-4-21:1 through 18 and 7-4-20:1 through 7.”

SECTION 49. Act 198, Session Laws of Hawaii 2005, is amended by amending section 3 to read as follows:

## ACT 250

“SECTION 3. Notwithstanding Act 15, Session Laws of Hawaii 1988, the affordable housing requirements for the undeveloped parcels in Puukolii village shall be established by agreement among:

- (1) The developer;
- (2) ~~The [housing and community development corporation of Hawaii];~~ Hawaii housing finance and development corporation; and
- (3) The appropriate agency or department of the county of Maui that is charged with the responsibility of administering affordable housing projects, unless such undeveloped parcels are part of a larger development that requires the approval of the Maui county council.

The affordable housing requirement shall include a requirement for housing that is affordable to households earning up to one hundred twenty per cent of the county median income.

The undeveloped parcels in Puukolii village are defined as tax map key numbers 4-4-02: por. 02 and 4-4-06: por. 01.”

### PART IV

SECTION 50. This Act shall be amended to conform to all other acts passed by the legislature during the regular session of 2007, whether enacted before or after the effective date of this Act, unless the other acts specifically provide otherwise.

SECTION 51. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 52. This Act shall take effect on July 1, 2007; provided that section 4 of this Act shall take effect on July 1, 2008; provided further that the amendments made by section 19 of this Act shall not be repealed on June 30, 2007, by section 30 of Act 100, Session Laws of Hawaii 2006; provided further that section 33 of this Act shall take effect on June 29, 2007.

(Approved July 3, 2007.)

#### Note

1. Open quote should be underscored.

## ACT 250

S.B. NO. 1174

A Bill for an Act Relating to Incarcerated Parents.

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

SECTION 1. The legislature finds that during the 1990s, the number of incarcerated parents in the United States grew by approximately fifty-nine per cent. The legislature further finds that currently there is no means of determining the exact number of incarcerated individuals with minor children in Hawaii as no procedure is in place for collecting such data. However, it is estimated that there are approximately 3,163 parents of 6,665 children in Hawaii’s prison system.

An increased focus needs to be placed on the children of incarcerated individuals to maintain a parent-child bond. Intervention is also needed with parent-child relationships in the non-incarcerated offender population. Studies indicate that the children of incarcerated individuals suffer from a multitude of negative consequences, including possible displacement from their home and separation from their

primary or secondary caregiver. As a result, these children experience strong emotional reactions to the incarceration and disruption in their home life, leading to a significant increase, up to six times more likely, of becoming involved in the criminal justice system themselves.

State policies contribute to the breakdown of the family by failing to facilitate the continued relationship between incarcerated individuals and their children when the relationship is in the best interests of the child. Denial of visitation is a means of punishment or discipline of the incarcerated individuals, but those who truly suffer are the children. The strengthening of family relationships has a positive effect on recidivism as studies have shown it lessens the possibility of future incarceration after an inmate's release from a correctional facility. Studies have also shown that therapeutic involvement with families during incarceration builds better and stronger relationships between the incarcerated parent's children and the incarcerated parent once the parent is released.

A successful model already has been developed and implemented in the State: the Strengthening Keiki of Incarcerated Parents (SKIP) Project aims to strengthen families, decrease abuse and neglect of children of incarcerated parents, and decrease the occurrence of repeat incarceration. The SKIP program works with incarcerated fathers at Waiawa correctional facility, and has been a model for projects in correctional facilities for both male and female inmates and institutions servicing other offender populations, such as No Na Kamalii and Ohana Strengthening at the Maui community correctional center and Makua Keiki at the Kauai community correctional center. A partnership is currently underway to replicate the program in the Hawaii community correctional center, as well. All of the related SKIP programs have formed a coalition known as the SKIP Partnership.

In addition to an educational playgroup, the program also enrolls the incarcerated parents in parenting programs, such as Nurturing Fathers and Supporting Parents as First Teachers, to help them reflect and heal from their neglectful and abusive childhoods, begin to learn how to nurture themselves and others, and to develop good parenting skills. The combination of education, play and learn groups, and support groups is aimed to increase an incarcerated parent's ability to provide a safe and nurturing environment for young children.

The legislature determines that the State should take an active role in aiding these families through the provision of incarcerated and non-incarcerated offender parent-child interaction programs, such as the SKIP program, to ensure that these children can build and maintain strong relationships with their parents and grow into well-adjusted, contributing members of the community.

The purpose of this Act is to support the continuation and expansion of parent-child interaction programs, such as the SKIP program, at other state correctional facilities and institutions servicing other offender populations to facilitate appropriate interactions and bonding between offender parents and their children.

**SECTION 2. Incarcerated parent-child interaction programs.** (a) Within the department of public safety, incarcerated parent-child interaction programs, such as the SKIP program, shall be developed for both male and female state correctional facilities and institutions servicing other offender populations. Funding may be used for:

- (1) The purchasing, development, and implementation of offender parent-child interaction programs that meet security requirements, such as the SKIP program, throughout the state correctional system and for institutions and agencies servicing other offender populations;
- (2) The collection of best available demographic data on the children of incarcerated parents including the number of children each incarcerated parent has; the children's ages, resident addresses, and schools; custody

and caregiving arrangements; and needed services provided that such data is to remain confidential and made available for the sole use of government agencies and government-contracted service providers and for the sole purpose of providing services to these children; and

- (3) An independent review of the programs using researchers such as the University of Hawaii at Manoa, public policy center.
- (b) Funding may also be used for:
  - (1) The training of public safety personnel on the merits of the programs; and
  - (2) The hiring of additional public safety personnel to facilitate the implementation of the programs.

(c) The independent reviewer contracted by the director of public safety shall submit a report, including its findings, recommendations, and any proposed legislation, to the legislature no later than twenty days prior to the convening of the 2008 regular session.

(d) The department of public safety shall take steps to implement incarcerated parent-child interaction programs such as the SKIP program. The department shall contract with nonprofit health and human services and other relevant agencies or organizations to develop and implement the recommended programs or services. The contract shall be executed in accordance with chapter 103F, Hawaii Revised Statutes.

SECTION 3. 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 2007-2008 and the same sum or so much thereof for fiscal year 2008-2009 for incarcerated parent-child interaction programs at state correctional facilities and institutions and agencies servicing other offender populations.

The sums appropriated shall be expended by the department of public safety for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved July 3, 2007.)

**ACT 251**

H.B. NO. 1833

A Bill for an Act Relating to Unfair Business Practices.

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

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 10F to be appropriately designated and to read as follows:

**“§431:10F- Directed suretyship; coercion of contractors.** (a) No person may require as a condition precedent to the granting, awarding, or issuing a contract for the construction or renovation of improvements to real property, that the person whose obligation under such contract is to provide, construct, or renovate improvements to real property is to acquire or negotiate a surety bond or other contract guaranteeing completion of such improvements through a particular surety insurer or group of surety insurers, or a particular producer or group of producers.

(b) The commissioner may examine and investigate the insurance related activities of any person whom the commissioner believes may be in violation of this section. Any person may submit to the commissioner a complaint or any material pertinent to the enforcement of this section.

(c) Nothing in this section shall prevent a person who grants, awards, or issues contracts for the construction or renovation of improvements to real property from requiring a person to acquire or negotiate a surety bond or other contract guaranteeing completion of the improvements through authorized surety insurers or producers licensed to do business in the State or both.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

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

(Approved July 3, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 252**

S.B. NO. 667

A Bill for an Act Relating to Mental Health Counselors.

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

SECTION 1. Act 14, Session Laws of Hawaii 2006 (Act 14), was enacted to amend the definition of the “practice of mental health counseling” by clarifying that professional counseling services are based on the specialized education, training, and experience that a practitioner has completed. In addition, Act 14 sets terms and conditions for interns and post-graduate work.

The purpose of this Act is to clarify the requirements for mental health counselor licensure by providing an alternative means of verifying the completion of the practicum intern and post-graduate experience requirements for persons who graduated from an accredited program before July 1, 2007.

SECTION 2. Section 453D-7, Hawaii Revised Statutes, is amended to read as follows:

“**§453D-7 Application for licensure as a mental health counselor.** (a) ~~[Any person who applies to the department after July 1, 2005,]~~ An applicant shall be issued a license by the department if the applicant provides satisfactory evidence to the department that the applicant is qualified for licensure pursuant to the requirements of this chapter and meets the following qualifications:

- (1) A master’s degree or doctoral degree from an accredited educational institution in counseling or in an allied field related to the practice of mental health counseling that includes or is supplemented by graduate level course work in counseling comprising a minimum of forty-eight semester hours or seventy-two quarter hours in the following course areas, with a minimum of three semester hours or five quarter hours in each course area as indicated below:
  - (A) Human growth and development, including but not limited to the study of life span development, strategies to facilitate that development and transitions, theories of learning and personality development, and human behavior to include crisis, disabilities, addictive behavior, and environmental factors;
  - (B) Social and cultural foundations, including but not limited to the study of issues and trends in a multicultural and diverse society, including characteristics of diverse groups that may include but

- are not limited to age, race, religious or sexual preference, physical disability, ethnicity and culture, gender, socioeconomics, intellectual ability, and individual, family, and group strategies with diverse populations;
- (C) Counseling theories and applications, including but not limited to counseling and consultation, including both individual and systems perspectives, interviewing, assessment, and counseling skills, as well as applying principles, methods, and theories of counseling, treatment and counseling of mental and emotional disorders, and educational techniques aimed at preventing such disorders with individuals and families;
  - (D) Group theory and practice, including but not limited to principles of group dynamics, group process, group leadership styles, theories and methods of group counseling, and the application of theory to the group processes;
  - (E) Career and lifestyle development, including but not limited to the study of vocational development theories and decision-making models, assessment instruments, and techniques, types, sources, and uses of occupational and educational information systems, career development applications, and career counseling processes, techniques, and resources;
  - (F) Appraisal of human behavior, including but not limited to assessment and diagnosis of disorders with an emphasis on DSM-IV categories, and an understanding of these disorders relative to the counseling context;
  - (G) Tests and measurements, including but not limited to theoretical and historical bases for assessment techniques, assessment methods, including analysis of various types of tests [~~in order~~] to select, administer, interpret, and use assessment and evaluation instruments and techniques in counseling;
  - (H) Research and program evaluation, including but not limited to research design and methods, statistical analysis, principles, practices, and application of needs assessment, and program evaluation; and
  - (I) Professional orientation and ethics, including but not limited to the history of the helping profession, professional roles and functions, ethical standards, confidentiality, professional organizations, and the public policy process, including advocacy on behalf of the profession and its clientele;
- (2) At least two academic terms of supervised mental health practicum intern experience for graduate credit of at least three semester hours or five quarter hours per academic term in a mental health counseling setting with three hundred hours of supervised client contact; the practicum experience shall be completed under the clinical supervision of a person who is licensed as a mental health counselor, psychologist, clinical social worker, advanced practice registered nurse with a specialty in mental health, marriage and family therapist, or physician with a specialty in psychiatry;
  - (3) Completion of not less than three thousand hours of post-graduate experience in the practice of mental health counseling with one hundred hours of face-to-face clinical supervision [~~which~~] that shall be completed in no less than two years and in no more than four years, under the clinical supervision of a person who is a licensed mental health counselor, psychologist, clinical social worker, advanced prac-

tice registered nurse with a specialty in mental health, marriage and family therapist, or physician with a specialty in psychiatry; and

- (4) Passed the National Counselor Examination for Licensure and Certification.
- (b) An individual who:
- (1) Holds current, unencumbered certification as a national certified counselor or a national certified rehabilitation counselor prior to the effective date of this chapter;
- (2) Has passed the National Counselor Examination for Licensure and Certification, National Clinical Mental Health Counselors Examination of the National Board for Certified Counselors, or Commission on Rehabilitation Counselor Certification examination after January 1, 2000, and before July 1, 2005; and
- (3) Within one year of the effective date of this chapter, applies for licensure and pays the applicable license fee, shall be deemed to have met the requirements of this section.

(c) For an applicant who graduated from an accredited educational institution as specified in subsection (a)(1) before July 1, 2007, the department shall also deem acceptable:

- (1) For practicum intern experience, written certification from an official of the institution of higher education attesting that the applicant has completed the academic terms, graduate credit hours, and supervised client contact hours in subsection (a)(2) and that the applicant's practicum intern experience is equivalent to a mental health graduate level practicum program; and
- (2) For post-graduate experience, written certification from an officer and the clinical supervisor of the agency at which the applicant has earned experience attesting that the applicant has completed the hours of experience and supervision in subsection (a)(3) within the time frame set forth in that subsection, and that the applicant's post-graduate experience is equivalent to the practice of mental health counseling.

The license requirements for clinical supervisors under subsections (a)(2) and (a)(3) shall not apply to this subsection."

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

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved July 5, 2007.)

**Note**

1. Hyphen should be underscored.

**ACT 253**

H.B. NO. 1003

A Bill for an Act Relating to Energy.

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

**PART I**

SECTION 1. The legislature finds and declares that Hawaii has struggled for thirty years to develop renewable energy resources to reduce its dependence on

imported sources of energy, such as fossil fuels. In 1974, the legislature passed a series of Acts that recognized the vulnerability of Hawaii's residents to the petroleum industry as a result of its reliance on imported oil for transportation fuels and power generation. Over the thirty years that followed, the legislature has enacted laws and appropriated funds to further develop alternative sources of energy.

In 2006, the legislature passed groundbreaking legislation, found in Act 240, Session Laws of Hawaii 2006, to promote energy self-sufficiency for the State. Act 240 promoted further development of renewable energy, including increased financial incentives, mechanisms for dedicated sources of funding, and the development of hydrogen as a renewable energy source. While progress has been made, there is still much to be done.

In 2006, the legislature also adopted House Concurrent Resolution No. 195, calling for a study of the feasibility of developing biofuels as a renewable energy primarily for electricity generation. The legislature recognized that the land-based development of crops for use in biofuels production for Hawaii would achieve the objective of energy self-sufficiency. The legislature also recognized that complex issues relating to land acquisition, water supply, and investment risk would need to be addressed before a viable and cost-effective biofuels program could be developed. The legislature finds that an integrated approach must be undertaken to coordinate the various industries and federal and state agencies to ensure the success of any substantial investment in biofuels development.

The legislature also finds that Hawaii should diversify its energy system and reduce its dependence on imported petroleum by introducing bioenergy resources into the overall energy system.

In response to the desire to diversify Hawaii's energy system, a biofuels summit and bioenergy workshop was held in 2006 to explore the potential for a domestic bioenergy and biofuels future. Both meetings resulted in the acknowledgment that the initiation of a bioenergy industry in Hawaii must first address a diverse and very complex set of issues that involves many public and private stakeholders.

The summit and workshop demonstrated the effectiveness of facilitated collaboration and pointed to the value of a mechanism to coordinate the development of supply, production capability, and infrastructure, each with long, independent lead times, that is understood and supported by both public and private stakeholders. Therefore, the legislature finds that the preparation of a bioenergy master plan is necessary to establish an effective strategy for the development of a bioenergy industry in Hawaii.

The purpose of this Act is two-fold:

- (1) Part II statutorily establishes the Hawaii natural energy institute of the University of Hawaii at Manoa, defines its mission, and creates the energy systems development special fund for the development of renewable energy and end-use energy-efficient technologies, including those that ameliorate peak demand problems. The roles of the institute will include:
  - (A) Managing the portfolio of renewable energy and energy efficiency technology programs to ensure an integrated approach;
  - (B) Using its technical expertise to advise state and federal agencies on the maximization of funding sources and encouragement of private industry investments; and
  - (C) Evaluating Hawaii's efforts toward energy self-sufficiency; and
- (2) Part III tasks the department of business, economic development, and tourism with the development and preparation of a bioenergy master plan that will set the course for the coordination and implementation of policies and procedures to develop a bioenergy industry in Hawaii.

## PART II

SECTION 2. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new subpart to part IV to be appropriately designated and to read as follows:

“ . Hawaii Natural Energy Institute

**§304A-A Hawaii natural energy institute; structure; function.** (a) There is established the Hawaii natural energy institute at the University of Hawaii. The institute shall be administered by a director to be appointed by the board of regents upon recommendation by the president. The director of the institute shall appoint the professional members of the staff and other employees. The president and board of regents shall have the same powers over the institute and its staff as over the university and its facilities.

(b) The director of the institute shall coordinate the institute’s work with the energy resources coordinator in carrying out duties pursuant to section 196-4 in the area of research and development of renewable energy sources.

(c) The institute shall:

- (1) Develop renewable sources of energy for power generation and transportation fuels by working in coordination with state agencies, federal agencies, and private entities;
- (2) Conduct research and development of renewable sources of energy;
- (3) Demonstrate and deploy efficient energy end-use technologies, including those that address peak electric demand issues;
- (4) Aggressively seek matching funding from federal agencies and private entities for its research and development and demonstration activities; and
- (5) Report annually to the legislature, no later than twenty days prior to the convening of each regular session, on its activities, expenditures, contracts developed, advances in technology, its work in coordination with state agencies and programs, and recommendations for proposed legislation.

**§304A-B Advisory council to Hawaii natural energy institute.** (a) The institute shall establish an advisory council of seven members, appointed by the president from a list of nominees submitted by the director of the institute and the energy resources coordinator of the department of business, economic development, and tourism. The members of the advisory council shall be from the general public, the energy industry, technology providers, state agencies whose primary functions relate to energy planning and policy analyses, and environmental groups, or other relevant stakeholder representatives as recommended by the director of the institute and the energy resources coordinator. Members shall be selected on the basis of their proven expertise and interest in the field of renewable energy. The director of the institute and the energy resources coordinator shall serve as ex officio nonvoting members of the advisory council.

(b) The primary role of the advisory council shall be to make recommendations to the director on the award of contracts and grants funded through the institute.

(c) The advisory council may advise the director on matters of strategic planning, goals and objectives, significant initiatives of the institute, and other matters as determined by the director.

**§304A-C Energy systems development special fund.** (a) There is established the energy systems development special fund for the purpose of developing an integrated approach and portfolio management of renewable energy and energy

efficiency technology projects that will reduce Hawaii's dependence on fossil fuel and imported oil and other imported energy resources and move Hawaii toward energy self-sufficiency.

(b) The special fund shall be funded by:

- (1) Appropriations from the legislature; and
- (2) Investment earnings, gifts, donations, or other income received by the institute.

(c) The Hawaii natural energy institute shall administer the special fund and may expend revenues from the special fund for the following activities:

- (1) Obtaining matching funds from federal and private sources for research, development, and demonstration of renewable energy sources;
- (2) Awarding contracts or grants to develop and deploy technologies that will reduce Hawaii's dependence on imported energy resources and imported oil. Projects may be commissioned that:
  - (A) Balance the risk, benefits, and time horizons of the investment to ensure tangible benefits to the Hawaii consumer, with priority given to short-term technology development;
  - (B) Emphasize innovative and renewable energy supply and energy efficient end use technologies focusing on environmental attributes, reliability, and affordability;
  - (C) Enhance transmission and distribution capabilities of renewable energy supply for electricity;
  - (D) Enhance reliability and storage capabilities of renewable energy for electricity;
  - (E) Ensure that research, deployment, and demonstration efforts build on existing programs and resources and are not duplicated;
  - (F) Address critical technical and scientific barriers to achieving energy self-sufficiency by reducing dependence on imported oil and imported energy resources;
  - (G) Ensure that technology used and developed for renewable energy production and distribution will be commercially viable; and
  - (H) Give priority to resources that are indigenous and unique to Hawaii; and
- (3) Managing the portfolio of projects commissioned under this subsection.

**§304A-D Periodic evaluation.** (a) Evaluations shall be conducted of the projects and activities funded by the energy systems development special fund. The evaluation shall assess, using objective criteria, the degree to which the projects and activities comport with and achieve stated objectives of the energy systems development special fund pursuant to section 304A-C.

(b) The initial evaluation shall be conducted at the end of the third year after the effective date of this Act, and every three years thereafter by a two-person panel of independent energy and environmental technical experts who shall be appointed by the director of business, economic development, and tourism and who are not affiliated with the Hawaii natural energy institute. The panel shall submit a report of the results of each evaluation to the legislature no later than twenty days prior to the convening of the following regular session. The institute shall cooperate and provide support to the evaluation panel.

**§304A-E Plan of action.** Prior to the initiation of any projects or activities authorized by section 304A-C, the Hawaii natural energy institute shall develop a plan of action in coordination with the state energy resources coordinator with the

intent of promoting effective prioritization and focusing of efforts consistent with the State's energy programs.''

SECTION 3. Act 235, Session Laws of Hawaii 1974, is repealed.

### PART III

SECTION 4. (a) The department of business, economic development, and tourism shall develop and prepare a bioenergy master plan in consultation with representatives of the relevant stakeholders. The primary objective of the bioenergy master plan shall develop a Hawaii renewable biofuels program to manage the State's transition to energy self-sufficiency based in part on biofuels for power generation and transportation. The bioenergy master plan shall address the following outcomes:

- (1) Strategic partnerships for the research, development, testing, and deployment of renewable biofuels technologies and production of biomass crops;
  - (2) Evaluation of Hawaii's potential to rely on biofuels as a significant renewable energy resource;
  - (3) Biofuels demonstration projects, including infrastructure for production, storage, and transportation of biofuels;
  - (4) Promotion of Hawaii's renewable biofuels resources to potential partners and investors for development in Hawaii as well as for export purposes; and
  - (5) A plan or roadmap to implement commercially viable biofuels development.
- (b) The bioenergy master plan shall address the following issues:
- (1) Specific objectives and timelines;
  - (2) Water resources;
  - (3) Land resources;
  - (4) Distribution infrastructure for both marine and land;
  - (5) Labor resources and issues;
  - (6) Technology to develop bioenergy feedstock and biofuels;
  - (7) Permitting;
  - (8) Financial incentives and barriers and other funding;
  - (9) Business partnering;
  - (10) Policy requirements necessary for implementation of the master plan; and
  - (11) Identification and analysis of the impacts of transitioning to a bioenergy economy while considering applicable environmental concerns.

(c) The department of business, economic development, and tourism shall submit an interim report of its progress, including any proposed legislation to facilitate the finalization of a master plan or support preliminary findings to accelerate the implementation of a bioenergy future for Hawaii, to the legislature no later than twenty days prior to the convening of the regular session of 2008. The department shall submit a final report, including the bioenergy master plan, as well as any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2009.

SECTION 5. 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 2007-2008 for the development and preparation of a bioenergy master plan that will set the course for the coordination and implementation of policies and procedures to develop a bioenergy industry in the State.

The sums appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this part.

**PART IV**

SECTION 6. In codifying the new sections added 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 7. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on July 1, 2007; provided that sections 304A-C, 304A-D, and 304A-E, Hawaii Revised Statutes, shall be repealed on June 30, 2012.

(Approved July 5, 2007.)

**Note**

- 1. No underscored material.

**ACT 254**

H.B. NO. 869

A Bill for an Act Making an Appropriation for a Study on Energy Efficient Transportation Strategies.

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

SECTION 1. The legislature finds that transportation is responsible for an inordinate amount of fuel consumption, including fuel used in motor vehicles, buses, and jet planes. The legislature further finds that reducing the demand for fuel in transportation modalities would greatly reduce our dependence on oil.

The Hawaii energy policy forum, a part of the social sciences public policy center at the University of Hawaii at Manoa, proposes to conduct a study on energy-efficient transportation strategies in conjunction with the department of business, economic development, and tourism.

The purpose of this Act is to appropriate funds for the University of Hawaii to conduct a study on energy-efficient transportation strategies.

SECTION 2. (a) The Hawaii energy policy forum at the University of Hawaii at Manoa shall conduct a study on energy-efficient transportation strategies in conjunction with the department of business, economic development, and tourism.

(b) The energy-efficient transportation strategies study under subsection (a) shall include but not be limited to:

- (1) Developing tangible goals, objectives, desired outcomes, and actions to implement an energy-efficient transportation strategy;
- (2) Developing implementation benchmarks for measuring outcomes of energy-efficient transportation strategies; and
- (3) A cost-benefit analysis of each energy-efficient transportation strategy.

(c) The social sciences public policy center shall engage and integrate Hawaii's business, government, labor, and community leaders into the study on energy-efficient transportation strategies.

(d) The department of business, economic development, and tourism shall consult with and otherwise assist the social sciences public policy center at the

University of Hawaii at Manoa on the energy-efficient transportation strategies study.

(e) The Hawaii energy policy forum shall submit a report on its findings and recommendations to the legislature no later than twenty days prior to the convening of the regular session of 2008.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 for a study on energy-efficient transportation strategies.

The sum appropriated shall be expended by the University of Hawaii social sciences public policy center for the purpose of this Act.

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved July 5, 2007.)

## ACT 255

S.B. NO. 1674

A Bill for an Act Relating to Health.

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

SECTION 1. Section 453-2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Except as otherwise provided by law, no person shall practice medicine or surgery in the [State] state, either gratuitously or for pay, or [shall] offer to [se] practice[;] medicine or surgery in the state, or [shall] advertise or announce one’s self, either publicly or privately, as prepared or qualified to [se] practice[;] medicine or surgery in the state, or [shall] append the letters “Dr.” or “M.D.” to one’s name[;] with the intent [thereby] to imply that the [individual] person is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license[;] obtained from the board of medical examiners[; ~~in form and manner substantially as hereinafter set forth~~].

(b) Nothing herein shall:

- (1) Apply to so-called Christian Scientists [~~so long as they merely~~]; provided that the Christian Scientists practice the religious tenets of their church without pretending a knowledge of medicine or surgery;
- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States armed forces or public health service engaged in the discharge of one’s official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation, including [~~but not limited to,~~] in-person, mail, electronic, telephonic, fiber-optic, or other telemedicine consultation with a licensed physician of this State, if the physician from another state at the time of such consultation is licensed to practice in the state in which the physician resides; provided that:
  - (A) The physician from another state shall not open an office, or appoint a place to meet patients[;] in this State, or receive calls within the limits of the State[;] for the provision of care for a patient who is located in this State; [~~and~~]

- (B) The licensed physician of this State retains control and remains responsible for the provision of care for the patient[;] who is located in this State; and  
[provided further that the]
- (C) The laws and regulations relating to contagious diseases are not violated;
- (4) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs a person certified under part II of this chapter to provide emergency medical services, or physician assistant, shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such person or physician assistant; [ø]
- (5) Prohibit automatic external defibrillation by:
  - (A) Any first responder personnel certified by the department of health to provide automatic external defibrillation when it is rendered under the medical oversight of a physician licensed in this State; or
  - (B) Any person who successfully completes training under an automatic external defibrillator program administered by a physician. An “automatic external defibrillator program” means an appropriate training course that includes cardiopulmonary resuscitation and proficiency in the use of an automatic external defibrillator[-]; or
- (6) Prohibit a radiologist duly licensed to practice medicine and provide radiology services in another state from using telemedicine while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed. For the purposes of this paragraph:
  - “Radiologist” means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.
  - “Telemedicine” means the use of telecommunications services, as that term is defined in section 269-1, including real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, such as diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, and deliver health care services and information to parties separated by distance.”

SECTION 2. Section 466J-6, Hawaii Revised Statutes, is amended to read as follows:

“**§466J-6 Persons exempted.** (a) Any provision in this chapter to the contrary notwithstanding, a license shall not be required for [licensed];

- (1) A licensed medical [practitioners] practitioner in radiology[;];
- (2) A licensed practitioner of nuclear medicine[-, licensed doctors];

- (3) A licensed doctor of dentistry[;];  
 (4) A licensed dental [technicians,] technician;  
 (5) A licensed dental [hygienists, and students] hygienist;  
 (6) A student in an approved school for radiographers, radiation therapists, or nuclear medicine technologists, [and] or in [schools] a school of medicine, podiatry, dentistry, or a chiropractic[-when the persons are] school; provided that the student is operating x-ray machines under the direct supervision of a licensed radiographer, licensed radiation therapist, licensed nuclear medicine technologist, or a qualified person pursuant to this chapter[-]; and  
 (7) A radiologist duly licensed to practice medicine and radiology services in another state who uses telemedicine while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed. For the purposes of this paragraph:  
“Radiologist” means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.  
“Telemedicine” means the use of telecommunications services, as that term is defined in section 269-1, including real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, such as diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, and deliver health care services and information to parties separated by distance.

(b) The board may issue special temporary permits upon request to unlicensed radiographers working in shortage areas. [~~After February 10, 1995, new special temporary permits shall not be issued by the board. After June 30, 1998, special temporary permits issued before February 10, 1995, shall not be renewed.~~]

SECTION 3. Nothing herein shall be deemed to permit a radiologist without a license to practice medicine in Hawaii, wherever located, to provide services to a patient who is located in Hawaii.

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

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

(Approved July 5, 2007.)

## ACT 256

S.B. NO. 1284

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 measure is to establish a policy framework to enable the employees' retirement system to eventually eliminate its \$5,100,000,000 unfunded liability. The framework set forth in this measure to enable the employees' retirement system to become fully funded over a reasonable length of time (twenty-nine years is contemplated in this measure) is dependent on several factors, including, for example, stability in the level of benefits received by

current and former employees. If future legislatures grant additional benefits (which includes earlier retirements), the time it will take for the employees' retirement system to become fully funded will be lengthened, perhaps significantly, depending on the level of benefit enhancements granted.

SECTION 2. Section 88-105, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) At least once in each five-year period, commencing with fiscal year 1994-1995, 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 further recommend the acceptable funded 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.”

SECTION 3. Section 88-122, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) The actuarial valuations made for years after June 30, 1999, shall be based on an eight per cent investment yield rate, ~~[assumed] salary [increases of four per cent,]~~ increase assumptions adopted by the board on the recommendation of the actuary described under section 88-30, and tables, contribution rates, and factors adopted by the board or legislature for actuarial valuations of the system, subject to recommendations made by the actuary appointed under section 88-29.”

2. By amending subsection (e) to read:

“(e) Commencing with fiscal year 2005-2006 and each subsequent fiscal year, the employer contributions for normal cost and accrued liability for each of the two groups of employees in subsection (a) shall be based on fifteen and three-fourths per cent of the member's compensation for police officers, firefighters, and corrections officers and thirteen and three-fourths per cent of the member's compensation for all other employees. Commencing with fiscal year 2008-2009 and each subsequent fiscal year, the employer contributions for normal cost and accrued liability for each of the two groups of employees in subsection (a) shall be based on nineteen and seven-tenths per cent of the member's compensation for police officers, firefighters, and corrections officers and fifteen per cent of the member's compensation for all other employees. The contribution rates shall amortize the total unfunded accrued liability of the entire plan over a period not to exceed thirty years. Effective January 2, 2008 until January 2, 2011, there shall be no benefit enhancements under this chapter for any group of members, including any reduction of retirement age, when there is an unfunded accrued liability.

The contribution rates shall be subject to adjustment:

- (1) If the actual period required to amortize the unfunded accrued liability exceeds thirty years;
- (2) If ~~[the actual period required to amortize the unfunded accrued liability falls below the established benchmark funding period of twenty-five years;]~~ there is no unfunded accrued liability; or
- (3) Based on the actuarial investigation conducted in accordance with section 88-105.”

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

SECTION 5. This Act shall take effect on July 1, 2007.

(Approved July 5, 2007.)

## ACT 257

S.B. NO. 1008

A Bill for an Act Relating to Annuities.

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

SECTION 1. The legislature finds that it is necessary to protect consumers who purchase annuity products.

The purpose of this Act is to ensure that the insurance needs and financial objectives of consumers in a transaction involving annuity products are appropriately addressed.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new part to article 10D to be appropriately designated and to read as follows:

### “PART . SUITABILITY IN ANNUITY TRANSACTIONS

**§431:10D-A Scope.** (a) This part applies to any recommendation to purchase or exchange an annuity made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended.

(b) This part does not apply to recommendations involving:

- (1) Direct-response solicitations where there is no recommendation based on information collected from the consumer pursuant to this part; or
- (2) Contracts used to fund:
  - (A) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act;
  - (B) A plan described by sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code of 1986, as amended, if established or maintained by an employer;
  - (C) A government or church plan defined in section 414 of the Internal Revenue Code of 1986, as amended, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under section 457 of the Internal Revenue Code of 1986, as amended;
  - (D) A non-qualified deferred compensation arrangement established or maintained by an employer or plan sponsor;
  - (E) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or
  - (F) Formal prepaid funeral contracts.

**§431:10D-B Definitions.** For the purposes of this part:

“Annuity” means a fixed or variable annuity that is individually solicited, whether the product is classified as an individual or group annuity.

“Insurance producer” means a person required to be licensed under the laws of this State to sell, solicit, or negotiate insurance, including annuities.

“Insurer” means a company required to be licensed under the laws of this State to provide insurance products, including annuities.

“Recommendation” means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase or exchange of an annuity in accordance with that advice.

**§431:10D-C Duties of insurers and insurance producers.** (a) In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer about the consumer’s investments, other insurance products, financial situation, and needs.

(b) Prior to the execution of a purchase or exchange of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain information concerning:

- (1) The consumer’s financial status;
- (2) The consumer’s tax status;
- (3) The consumer’s investment objectives; and
- (4) Such other information used or considered to be reasonable by the insurance producer, or the insurer where no producer is involved, in making recommendations to the consumer.

(c)(1) Except as provided under paragraph (2), neither an insurance producer, nor an insurer where no producer is involved, shall have any obligation to a consumer related to any recommendation if a consumer:

- (A) Refuses to provide relevant information requested by the insurer or insurance producer;
- (B) Decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance producer; or
- (C) Fails to provide complete or accurate information.

(2) An insurer or insurance producer’s recommendation subject to paragraph (1) shall be reasonable under all the circumstances actually known to the insurer or insurance producer at the time of the recommendation.

(d) An insurer shall either ensure that a system to supervise recommendations that is reasonably designed to achieve compliance with this part is established and maintained by complying with subsections (f), (g), and (h), or establish and maintain such a system, which shall include but not be limited to:

- (1) Maintaining written procedures; and
- (2) Conducting a periodic review of the insurer’s records that is reasonably designed to assist in detecting and preventing violations of this part.

(e) A managing general agent and independent agency shall adopt a system established by an insurer to supervise recommendations of its insurance producers that is reasonably designed to achieve compliance with this part, or establish and maintain such a system, which shall include but not be limited to:

- (1) Maintaining written procedures; and
- (2) Conducting a periodic review of records that is reasonably designed to assist in detecting and preventing violations of this part.

(f) An insurer may contract with a third party, including a managing general agent or independent agency, to comply with the requirement of subsection (d) to establish and maintain a system of supervision of insurance producers under contract with or employed by the third party.

(g) An insurer shall make reasonable inquiry to ensure that the third party contracting under subsection (f) is performing the functions required under subsection

tion (d) and shall take such action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by:

- (1) Annually obtaining a certification from a third party senior manager who has responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent, that the third party is performing the required functions; provided that no person may provide a certification unless:
  - (A) The person is a senior manager with responsibility for the delegated functions; and
  - (B) The person has a reasonable basis for making the certification; and
- (2) Based on reasonable selection criteria, periodically reviewing the performance of selected third parties contracting under subsection (f) to determine whether the third parties are performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances.

(h) An insurer that contracts with a third party pursuant to subsection (f) and that complies with the requirements to supervise in subsection (g) shall have fulfilled its responsibilities under subsection (d).

(i) An insurer, managing general agent, or independent agency is not required by subsections (d) and (e) to:

- (1) Review, or provide for review of, all insurance producer-solicited transactions; or
- (2) Include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer, managing general agent, or independent agency.

(j) A managing general agent or independent agency who contracts with an insurer under subsection (f) shall promptly, when requested by the insurer under subsection (g), give a certification as described in subsection (g) or give a clear statement that it is unable to satisfy the certification criteria.

(k) Compliance with the National Association of Securities Dealers Conduct Rules pertaining to suitability shall satisfy the requirements under this section for recommending variable annuities. Nothing in this subsection shall limit the insurance commissioner's ability to enforce this part.

**§431:10D-D Mitigation of responsibility.** (a) The commissioner may order:

- (1) An insurer to take reasonably appropriate corrective action for any consumer harmed by the insurer's, or by its insurance producer's, violation of this part;
- (2) An insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this part; and
- (3) A general agency or independent agency that employs or contracts with an insurance producer to sell or solicit the sale of annuities to consumers, to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this part.

(b) Any penalty applicable to an insurer, a managing general agent, independent agencies, or a producer under article 13 of chapter 431 for a violation of section 431:10D-C(a), (b), and (c) may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered.

**§431:10D-E Recordkeeping.** Insurers, managing general agents, independent agencies, and insurance producers shall maintain or make available to the

commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for five years after the insurance transaction has been completed by the insurer. An insurer may maintain documentation on behalf of an insurance producer.”

SECTION 3. Section 431:13-103, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

- (1) Misrepresentations and false advertising of insurance policies. Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:
  - (A) Misrepresents the benefits, advantages, conditions, or terms of any insurance policy;
  - (B) Misrepresents the dividends or share of the surplus to be received on any insurance policy;
  - (C) Makes any false or misleading statement as to the dividends or share of surplus previously paid on any insurance policy;
  - (D) Is misleading or is a misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;
  - (E) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof;
  - (F) Is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy;
  - (G) Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy;
  - (H) Misrepresents any insurance policy as being shares of stock;
  - (I) Publishes or advertises the assets of any insurer without publishing or advertising with equal conspicuousness the liabilities of the insurer, both as shown by its last annual statement; or
  - (J) Publishes or advertises the capital of any insurer without stating specifically the amount of paid-in and subscribed capital;
- (2) False information and advertising generally. 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 any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of the person’s insurance business, which is untrue, deceptive, or misleading;
- (3) Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance;

- (4) Boycott, coercion, and intimidation.
  - (A) Entering into any agreement to commit, or by any action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance; or
  - (B) Entering into any agreement on the condition, agreement, or understanding that a policy will not be issued or renewed unless the prospective insured contracts for another class or an additional policy of the same class of insurance with the same insurer;
- (5) False financial statements.
  - (A) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or knowingly causing, directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of a material fact as to the financial condition of an insurer; or
  - (B) Knowingly making any false entry of a material fact in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom the insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, knowingly omitting to make a true entry of any material fact pertaining to the business of the insurer in any book, report, or statement of the insurer;
- (6) Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance;
- (7) Unfair discrimination.
  - (A) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any ~~[contract]~~ policy of life insurance or ~~[of life]~~ annuity contract or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contract;
  - (B) Making or permitting any unfair discrimination in favor of particular individuals or persons, or between insureds or subjects of insurance having substantially like insuring, risk, and exposure factors, or expense elements, in the terms or conditions of any insurance contract, or in the rate or amount of premium charge therefor, or in the benefits payable or in any other rights or privilege accruing thereunder;
  - (C) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:
    - (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or

- (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate;
- (D) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:
  - (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination; or
  - (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate;
- (E) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because of the sex or marital status of the individual; however, nothing in this subsection shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits;
- (F) Terminating or modifying coverage, or refusing to issue or renew any property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired; provided that this subparagraph shall not apply to accident and health or sickness insurance sold by a casualty insurer; provided further that this subparagraph shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract;
- (G) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual based solely upon the individual's having taken a human immunodeficiency virus (HIV) test prior to applying for insurance; or
- (H) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because the individual refuses to consent to the release of information which is confidential as provided in section 325-101; provided that nothing in this subparagraph shall prohibit an insurer from obtaining and using the results of a test satisfying the requirements of the commissioner, which was taken with the consent of an applicant for insurance; provided further that any applicant for insurance who is tested for HIV infection shall be afforded the opportunity to obtain the test results, within a reasonable time after being tested, and that the confidentiality of the test results shall be maintained as provided by section 325-101;
- (8) Rebates. Except as otherwise expressly provided by law:
  - (A) Knowingly permitting or offering to make or making any contract of insurance, or agreement as to the contract other than as plainly expressed in the contract, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to the insurance, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits, or any valuable consideration or inducement not specified in the contract; or

- (B) Giving, selling, or purchasing, or offering to give, sell, or purchase as inducement to the insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value not specified in the contract;
- (9) Nothing in paragraph (7) or (8) shall be construed as including within the definition of discrimination or rebates any of the following practices:
- (A) In the case of any [~~contract of~~] life insurance policy or [life] annuity[~~;~~] contract, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance; provided that any bonus or abatement of premiums shall be fair and equitable to policyholders and in the best interests of the insurer and its policyholders;
- (B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;
- (C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for the policy year; and
- (D) In the case of any contract of insurance, the distribution of savings, earnings, or surplus equitably among a class of policyholders, all in accordance with this article;
- (10) Refusing to provide or limiting coverage available to an individual because the individual may have a third-party claim for recovery of damages; provided that:
- (A) Where damages are recovered by judgment or settlement of a third-party claim, reimbursement of past benefits paid shall be allowed pursuant to section 663-10;
- (B) This paragraph shall not apply to entities licensed under chapter 386 or 431:10C; and
- (C) For entities licensed under chapter 432 or 432D:
- (i) It shall not be a violation of this section to refuse to provide or limit coverage available to an individual because the entity determines that the individual reasonably appears to have coverage available under chapter 386 or 431:10C; and
- (ii) Payment of claims to an individual who may have a third-party claim for recovery of damages may be conditioned upon the individual first signing and submitting to the entity documents to secure the lien and reimbursement rights of the entity and providing information reasonably related to the entity's investigation of its liability for coverage.
- Any individual who knows or reasonably should know that the individual may have a third-party claim for recovery of damages and who fails to provide timely notice of the potential claim to the entity, shall be deemed to have waived the prohibition of this paragraph against refusal or limitation of coverage. "Third-party claim" for purposes of this paragraph means any tort claim for monetary recovery or damages that the individual has against any

person, entity, or insurer, other than the entity licensed under chapter 432 or 432D;

- (11) Unfair claim settlement practices. Committing or performing with such frequency as to indicate a general business practice any of the following:
  - (A) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
  - (B) With respect to claims arising under its policies, failing to respond with reasonable promptness, in no case more than fifteen working days, to communications received from:
    - (i) The insurer's policyholder;
    - (ii) Any other persons, including the commissioner; or
    - (iii) The insurer of a person involved in an incident in which the insurer's policyholder is also involved.

The response shall be more than an acknowledgment that such person's communication has been received, and shall adequately address the concerns stated in the communication;

- (C) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (D) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
- (E) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- (F) Failing to offer payment within thirty calendar days of affirmation of liability, if the amount of the claim has been determined and is not in dispute;
- (G) Failing to provide the insured, or when applicable the insured's beneficiary, with a reasonable written explanation for any delay, on every claim remaining unresolved for thirty calendar days from the date it was reported;
- (H) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;
- (I) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by the insureds;
- (J) Attempting to settle a claim for less than the amount to which a reasonable person would have believed the person was entitled by reference to written or printed advertising material accompanying or made part of an application;
- (K) Attempting to settle claims on the basis of an application which was altered without notice, knowledge, or consent of the insured;
- (L) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;
- (M) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
- (N) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

- (O) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage to influence settlements under other portions of the insurance policy coverage;
  - (P) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement; and
  - (Q) Indicating to the insured on any payment draft, check, or in any accompanying letter that the payment is “final” or is “a release” of any claim if additional benefits relating to the claim are probable under coverages afforded by the policy; unless the policy limit has been paid or there is a bona fide dispute over either the coverage or the amount payable under the policy;
- (12) Failure to maintain complaint handling procedures. Failure of any insurer to maintain a complete record of all the complaints which it has received since the date of its last examination under section 431:2-302. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. For purposes of this section, “complaint” means any written communication primarily expressing a grievance; ~~and~~
- (13) Misrepresentation in insurance applications. Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, producer, or individual[-]; and
- (14) Failure to obtain information. Failure of any insurance producer, or an insurer where no producer is involved, to comply with section 431:10D-C(a), (b), or (c) by making reasonable efforts to obtain information about a consumer before making a recommendation to the consumer to purchase or exchange an annuity.’’

SECTION 4. Nothing in this Act shall be construed to affect in any manner any provision of chapter 485, Hawaii Revised Statutes.

SECTION 5. Nothing in this Act shall be construed to affect in any manner any provision of chapter 485A, Hawaii Revised Statutes.

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 7. In codifying the new part added to chapter 431, Hawaii Revised Statutes, by section 2 of this Act, the revisor of statutes shall substitute the appropriate section numbers for letters used in designating the new sections in this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on January 1, 2008; provided that section 5 shall take effect on July 1, 2008; provided further that section 4 shall be repealed on July 1, 2008.

(Approved July 5, 2007.)

A Bill for an Act Relating to Taxation.

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

SECTION 1. While section 251-2, Hawaii Revised Statutes, pertains to surcharge taxes for rental motor vehicles and tour vehicles, the legislature finds that in 1999, it temporarily increased the daily surcharge tax on rental motor vehicles and not tour vehicles. This temporary tax increase of \$1 generates about \$14,000,000 a year for the highway fund and this increase is scheduled to sunset on August 31, 2007. The highway fund is in need of revenues and would suffer from the loss of revenues if this sunset provision took place.

The purpose of this Act is to avoid the loss of revenues by extending the sunset provision deadline by one year while a study is being conducted. In calling for a study the legislature finds that when these surcharge taxes were first established in 1991, there appeared to be no clearly stated basis or rationale for the establishment of the taxes and in particular the relationship or the amount of the taxes between rental motor vehicles and tour vehicles. In addition, the study shall include and not be limited to exploring the present and future needs of the highway fund and alternative means of increasing revenues from vehicles other than just rental and tour vehicles.

SECTION 2. Section 251-2, 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 rental motor vehicle surcharge tax of \$2 a day, except that for the period of September 1, 1999, to August 31, [2007,] 2008, the tax shall be \$3 a day, or any portion of a day that a rental motor vehicle is rented or leased. The rental motor vehicle surcharge tax shall be levied upon the lessor; provided that the tax shall not be levied on the lessor if:

- (1) The lessor is renting the vehicle to replace a vehicle of the lessee that is being repaired; and
- (2) A record of the repair order for the vehicle is retained either by the lessor for two years for verification purposes or by a motor vehicle repair dealer for two years as provided in section 437B-16.”

SECTION 3. (a) There shall be a joint senate and house of representatives task force, appointed by the president of the senate and the speaker of the house of representatives, to conduct a review of the financial requirements of the state highway fund, with an emphasis on the adequacy and equity of revenues generated by one or more revenues sources pursuant to section 251-2, Hawaii Revised Statutes, compared with other revenue sources contributing to or that could be contributing to the highway fund.

(b) The review may include but shall not be limited to discussions and meetings with representatives of different interest groups and present contributors of revenues to the highway fund and may also include:

- (1) Past, present, and projected revenues of the state highway fund;
- (2) The ability of the department of transportation to plan, implement, and expend funds on a timely basis;
- (3) An analysis of the actual revenue needs of the department of transportation;

(4) Other revenue sources of the state highway fund and their nexus to the fund; and

(5) Other governmental matching funds.

(c) The review shall include but not limited to data from the 2000-2001 fiscal year to present and may include any data, information, or conclusions reported by task forces or groups that have discussed or met in the past to evaluate at least in part the fiscal needs or viability of the state highway fund.

(d) The joint task force shall submit a report of its findings to the legislature twenty days prior to the convening of the regular session of 2008.

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

SECTION 5. This Act shall take effect upon approval.

(Approved July 5, 2007.)

**ACT 259**

H.B. NO. 833

A Bill for an Act Relating to Employment.

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

SECTION 1. The legislature finds that services rendered by individuals who provide in home care under the State of Hawaii Medicaid DD-MR Waiver Program, as authorized the Social Security Act, as amended, should be excluded from “employment” under chapters 383, 386, 392, and 393, Hawaii Revised Statutes. The legislature finds that if these individuals are not excluded, then the social service payments must be upwardly adjusted to include the cost of employee benefits for these individuals.

The legislature finds that excluding these individuals from “employment” under chapters 383, 386, 392, and 393, Hawaii Revised Statutes, is consistent with existing law and reflects the past practices under the determinations of the law by the director of the department of labor and industrial relations prior to 2005.

The purpose of this Act is to clarify the existing exclusions under chapters 386, 392, and 393, Hawaii Revised Statutes, and to provide a new exclusion under chapter 383, Hawaii Revised Statutes.

SECTION 2. Section 383-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Recipient of social service payments” includes:

- (1) A person who is an eligible recipient of social services such as attendant care and day care services; and
- (2) A corporation or private agency that contracts directly with the department of human services to provide attendant care and day care authorized under the Social Security Act, as amended.”

SECTION 3. Section 386-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Recipient of social service payments” includes:

- (1) A person who is an eligible recipient of social services such as attendant care and day care services; and

- (2) A corporation or private agency that contracts directly with the department of human services to provide attendant care and day care authorized under the Social Security Act, as amended.”

SECTION 4. Section 392-3, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Recipient of social service payments” includes:

- (1) A person who is an eligible recipient of social services such as attendant care and day care services; and
- (2) A corporation or private agency that contracts directly with the department of human services to provide attendant care and day care services authorized under the Social Security Act, as amended.”

SECTION 5. Section 393-3, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Recipient of social service payments” includes:

- (1) A person who is an eligible recipient of social services such as attendant care and day care services; and
- (2) A corporation or private agency that contracts directly with the department of human services to provide attendant care and day care authorized under the Social Security Act, as amended.”

SECTION 6. Section 383-7, Hawaii Revised Statutes, is amended to read as follows:

“**§383-7 Excluded service.** (a) “Employment” shall 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~~] That, 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~~] That 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 as set forth in section 3306(c)(2) of the Internal Revenue Code of 1986, as amended;
- (3) Service not in the course of the employing unit’s trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit’s trade or business during a calendar quarter [~~only~~] if:
  - (A) On each of some twenty-four days during the quarter the individual performs the service for some portion of the day; or

- (B) The individual was regularly employed as determined under subparagraph (A) by the employing unit in the performance of 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 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);
  - (ii) The service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employing unit which had in its employ one or more individuals performing the service for some portion of a day in each of twenty calendar weeks all occurring, whether consecutive or not, in either the current or the preceding calendar year; and
  - (iii) Service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
- (5) Service performed by an individual in the employ of 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 apply to those instrumentalities, and to services performed for 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 those instrumentalities with respect to 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 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 the service, exempt

- from the tax imposed by section 3301 of the Internal Revenue Code of 1986, as amended;
- (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 the Internal Revenue Code), if:
    - (i) The remuneration for the service is less than \$50; or
    - (ii) The service is performed by a fully ordained, commissioned, or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of duties required by the order;
  - (B) Service performed in the employ of a school, college, or university, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university; or
  - (C) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at ~~such~~ the institution, which combines academic instruction with work experience, if ~~such~~ the service is an integral part of such program, and ~~such~~ the institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;
  - (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-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 producer, if all 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 service performed by the individual for 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 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 services performed by the individual for the employing unit are performed for remuneration solely by way of commission;
  - (20) Service performed for a 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 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 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;
  - (21) Service performed by a direct seller as defined in section 3508 of the Internal Revenue Code of 1986; [and]
  - (22) Service performed by an election official or election worker as defined in section 3309(b)(3)(F) of the Internal Revenue Code of 1986, as amended[-]; and
  - (23) Domestic in-home and community-based services for persons with developmental disabilities and mental retardation under the medicaid home and community-based services program pursuant to title 42 Code of Federal Regulations sections 440.180 and 441.300, and title 42 Code of Federal Regulations, part 434, subpart A, as amended, and identified as chore, personal assistance and habilitation, residential habilitation, supported employment, respite, and skilled nursing services, as the terms are defined and amended from time to time by the department of human services, performed by an individual whose services are contracted by a recipient of social service payments and who voluntarily

agrees in writing to be an independent contractor of the recipient of social service payments unless the individual is an employee and not an independent contractor of the recipient of social service payments under the Federal Unemployment Tax Act.

(b) None of the [foregoing] exclusions [(1) to (22)] in subsection (a) 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 7. Section 386-1, Hawaii Revised Statutes, is amended by amending the definition of ‘‘employment’’ to read as follows:

‘‘‘Employment’’ means any service performed by an individual for another person under any contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully entered into. It includes service of public officials, whether elected or under any appointment or contract of hire express or implied.

‘‘Employment’’ does not include [~~the following service~~]:

- (1) Service for a religious, charitable, educational, or nonprofit organization if performed in a voluntary or unpaid capacity;
- (2) Service for a religious, charitable, educational, or nonprofit organization if performed by a recipient of aid therefrom and the service is incidental to or in return for the aid received;
- (3) Service for a school, college, university, college club, fraternity, or sorority if performed by a student who is enrolled and regularly attending classes and in return for board, lodging, or tuition furnished, in whole or in part;
- (4) Service performed by a duly ordained, commissioned, or licensed minister, priest, or rabbi of a church in the exercise of the minister’s, priest’s, or rabbi’s ministry or by a member of a religious order in the exercise of nonsecular duties required by the order;
- (5) Service performed by an individual for another person solely for personal, family, or household purposes if the cash remuneration received is less than \$225 during the current calendar quarter and during each completed calendar quarter of the preceding twelve-month period;
- (6) Domestic, [~~which includes attendant care, and day care services authorized by the department of human services under the Social Security Act, as amended,~~] in-home and community-based services for persons with developmental disabilities and mental retardation under the medicaid home and community-based services program pursuant to title 42 Code of Federal Regulations sections 440.180 and 441.300, and title 42 Code of Federal Regulations, part 434, subpart A, as amended, and identified as chore, personal assistance and habilitation, residential habilitation, supported employment, respite, and skilled nursing services, as the terms are defined by the department of human services, performed by an individual [~~in the employ of~~] whose services are contracted by a recipient of social service payments[;] and who voluntarily agrees in writing to be an independent contractor of the recipient of social service payments;
- (7) Service performed without wages for a corporation without employees by a corporate officer in which the officer is at least a twenty-five per cent stockholder;

- (8) Service performed by an individual for a corporation if the individual owns at least fifty per cent of the corporation; provided that no employer shall require an employee to incorporate as a condition of employment; and
- (9) Service performed by an individual for another person as a real estate salesperson or as a real estate broker, if all the service performed by the individual for the other person is performed for remuneration solely by way of commission.

As used in this paragraph "religious, charitable, educational, or nonprofit organization" means a corporation, unincorporated association, community chest, fund, or foundation organized and operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual."

SECTION 8. Section 392-5, Hawaii Revised Statutes, is amended to read as follows:

**"§392-5 Excluded services.** "Employment" as defined in section 392-3 shall not include [the following services]:

- (1) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, performed in any calendar quarter by an individual if the cash remuneration paid by the employer for such service is less than \$225;
- (2) Service not in the course of the employer'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 employer to perform the service. An individual shall be deemed to be regularly employed to perform service not in the course of the employer's trade or business during a calendar quarter only if:
  - (A) On each of some twenty-four days during the quarter the individual performs the service for some portion of the day; or
  - (B) The individual was regularly employed [({}, as determined under subparagraph (A))], by the employer in the performance of the service during the preceding calendar quarter;
- (3) 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;
- (4) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except:
  - (A) The service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States);
  - (B) The service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employer who, for some portion in each of twenty different calendar weeks in either the current or preceding calendar year, had in the em-

- ployer's employ one or more persons performing the service, whether or not the weeks were consecutive and whether or not the same individuals performed the service in each week; and
- (C) The 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;
  - (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] that is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1986;
  - (8) Service with respect to which temporary disability compensation is payable for sickness under a temporary disability insurance system established by an act of Congress;
  - (9) Service performed in any calendar quarter in the employ of any non-profit organization exempt from income tax under section 501 of the Internal Revenue Code of 1986, if:
    - (A) The remuneration for such service is less than \$50;
    - (B) The service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university;
    - (C) The service is performed by a duly ordained, commissioned, or licensed minister 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 nonsecular duties required by the order; or
    - (D) The service is performed for a church by an employee who fails to meet the eligibility requirements of section 392-25;
  - (10) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents, if:
    - (A) No part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual; and
    - (B) Eighty-five per cent or more of its income consists of amounts collected from members and amounts contributed by the employer of the members for the sole purpose of making such payments and meeting expenses;
  - (11) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if:
    - (A) Admission to membership in the association is limited to individuals who are officers or employees of the United States government; and
    - (B) No part of the net earnings of the association inures (other than through such payments) to the benefit of any private shareholder or individual;

- (12) Service performed in the employ of a school, college, or university, not exempt from income tax under section 501 of the Internal Revenue Code of 1986, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university;
- (13) Service performed in the employ of any instrumentality wholly owned by a foreign government, if:
- (A) 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) 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;
- (14) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;
- (15) Service performed by an individual for an employer as an insurance producer, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission;
- (16) 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;
- (17) 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 employer during the period covered by the employer's duly approved election, are deemed to be performed entirely within the agency's state;
- (18) 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;
- (19) ~~Domestic[; which includes attendant care, and day care services authorized by the department of human services under the Social Security Act, as amended;]~~ in-home and community-based services for persons with developmental disabilities and mental retardation under the medicaid home and community-based services program pursuant to title 42 Code of Federal Regulations sections 440.180 and 441.300, and title 42 Code of Federal Regulations, part 434, subpart A, as amended, and identified as chore, personal assistance and habilitation, residential habilitation, supported employment, respite, and skilled nursing services, as the terms are defined by the department of human services, performed by an individual [in the employ of] whose services are contracted by a recipient of social service payments[;] and who voluntarily agrees in writing to be an independent contractor of the recipient of social service payments;
- (20) Service performed by a vacuum cleaner salesperson for an employing unit, if all such services performed by the individual for such employing unit are performed for remuneration solely by way of commission; or

- (21) Service performed by an individual for an employer as a real estate salesperson or as a real estate broker, if all the service performed by the individual for the employer is performed for remuneration solely by way of commission.’’

SECTION 9. Section 393-5, Hawaii Revised Statutes, is amended to read as follows:

“**§393-5 Excluded services.** ‘‘Employment’’ as defined in section 393-3 does not include ~~[the following services]:~~

- (1) Service performed by an individual in the employ of an employer who, by the laws of the United States, is responsible for care and cost in connection with such service[-];
- (2) Service performed by an individual in the employ of the individual’s spouse, son, or daughter, and service performed by an individual under the age of twenty-one in the employ of the individual’s father or mother[-];
- (3) Service performed in the employ of a voluntary employee’s beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if:
  - (A) Admission to membership in the association is limited to individuals who are officers or employees of the United States government[-]; and
  - (B) No part of the net earnings of the association inures (other than through such payments) to the benefits of any private shareholder or individual[-];
- (4) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor[-] if all [such] service performed by the individual for the employer is performed for remuneration [solely] by way of commission[-];
- (5) Service performed by an individual for an employer as a real estate salesperson or as a real estate broker[-] if all [such] service performed by the individual for the employer is performed for remuneration [solely] by way of commission[-];
- (6) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the provisions of law relating to federal employment, including unemployment compensation[-]; and
- (7) ~~Domestic[-], which includes attendant care, and day care services authorized by the department of human services under the Social Security Act, as amended,] in-home and community-based services for persons with developmental disabilities and mental retardation under the Medicaid home and community-based services program pursuant to title 42 Code of Federal Regulations sections 440.180 and 441.300, and title 42 Code of Federal Regulations, part 434, subpart A, as amended, and identified as chore, personal assistance and habilitation, residential habilitation, supported employment, respite, and skilled nursing services, as the terms are defined and amended from time to time by the department of human services, performed by an individual [in the employ of] whose services are contracted by a recipient of social service payments[-] and who voluntarily agrees in writing to be an independent contractor of the recipient of social service payments.’’~~

SECTION 10. The department of labor and industrial relations shall submit a report to the legislature not later than twenty days prior to the convening of the regular session of 2009 on the financial impact and consequences of the exclusions from the employment related laws established under this Act for service providers who provide medicaid home and community-based services for persons with developmental disabilities and mental retardation.

SECTION 11. If any provision of this Act, or the application thereof to any person or circumstance is contrary to federal law, that provision or any application thereof to any person or circumstance shall be invalid; provided that 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 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect upon its approval.

(Approved July 6, 2007.)

## ACT 260

S.B. NO. 1365

A Bill for an Act Relating to the Innovation Economy.

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

SECTION 1. The legislature finds that Hawaii's desire for economic growth that benefits all residents depends on building our State's human resources, and in turn, applying these highly skilled resources to the creation and adoption of innovation across its economy.

The legislature further finds that economic growth and diversification throughout many communities has been enhanced by the availability of venture capital funding for entrepreneurs engaged in building innovative new ventures. Well-known regions such as Silicon Valley; Route 128 in Boston; Austin, Texas; and the Research Triangle in North Carolina have benefited greatly from the combination of scientific research, an entrepreneurial culture driving high technology growth, and funding availability for early-stage equity investments. Other areas similar in size and population to Hawaii, including San Diego, Salt Lake City, Seattle, and Boulder, have also developed strong technology-based businesses with the assistance of venture capital.

The source of this venture capital is derived in large part through employee pension funds. Of the approximately \$25,000,000,000 of venture investment in 2006, over half was provided by pension funds. Many public pension funds target investments in-state to provide enhanced returns to pensioners and support the development of high-growth businesses within local communities.

The state employees' retirement system has committed approximately \$300,000,000 to the alternative asset category, including venture capital, but none of it is invested in Hawaii. The legislature finds that this lack of investment in Hawaii venture capital by the employees' retirement system may be due to a lack of large-scale qualified investment opportunities and concerns over the possible breach of fiduciary duty and prudent investor rules related to early-stage investing. Oregon, for

example, has legislated investment by the public pension fund in local venture capital where prudent.

The purpose of this Act is to encourage the employees' retirement system to invest in Hawaii venture capital by:

- (1) Requiring the employees' retirement system to report annually to the legislature on any Hawaii venture capital investments; provided that if the board determines it is not prudent to invest in any Hawaii venture capital the board shall report the rationale for the decision; and
- (2) Requiring the employees' retirement system to develop criteria to determine the amount of funds that may be prudently invested in Hawaii private placement investments.

SECTION 2. Section 88-119, Hawaii Revised Statutes, is amended to read as follows:

“**§88-119 Investments.** Investments may be made in:

- (1) Real estate loans and mortgages. Obligations (as defined in section 431:6-101) of any of the following classes:
  - (A) Obligations secured by mortgages of nonprofit corporations desiring to build multirental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action;
  - (B) Obligations secured by mortgages insured by the Federal Housing Administration;
  - (C) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 or under Title II of the National Housing Act;
  - (D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple; provided that the amount of the obligation at the time investment is made therein shall not exceed eighty per cent of the value of the real estate and improvements mortgaged to secure it, and except that the amount of the obligation at the time investment is made therein may exceed eighty per cent but no more than ninety per cent of the value of the real estate and improvements mortgaged to secure it; provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer shall be sufficient to reduce the system's exposure to not more than eighty per cent of the value of the real estate and improvements mortgaged to secure it. The insurance coverage shall remain in force until the principal amount of the obligation is reduced to eighty per cent of the market value of the real estate and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board. Real estate shall not be deemed to be encumbered within the meaning of this subparagraph by reason of the existence of any of the restrictions, charges, or claims described in section 431:6-308;
  - (E) Other obligations secured by first mortgages of leasehold interests in improved real estate; provided that:
    - (i) Each leasehold interest at the time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures; and

- (ii) The amount of the obligation at the time investment is made therein shall not exceed eighty per cent of the value of the respective leasehold interest and improvements, and except that the amount of the obligation at the time investment is made therein may exceed eighty per cent but no more than ninety per cent of the value of the leasehold interest and improvements mortgaged to secure it;

provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer shall be sufficient to reduce the system's exposure to not more than eighty per cent of the value of the leasehold interest and improvements mortgaged to secure it. The insurance coverage shall remain in force until the principal amount of the obligation is reduced to eighty per cent of the market value of the leasehold interest and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board;

- (F) Obligations for the repayment of home loans guaranteed by the department of Hawaiian home lands pursuant to section 214(b) of the Hawaiian Homes Commission Act, 1920; and
- (G) Obligations secured by second mortgages on improved real estate for which the mortgagor procures a second mortgage on the improved real estate for the purpose of acquiring the leaseholder's fee simple interest in the improved real estate; provided that any prior mortgage ~~does~~ shall not contain provisions that might jeopardize the security position of the retirement system or the borrower's ability to repay the mortgage loan.

The board may retain the real estate, including leasehold interests therein, as it may acquire by foreclosure of mortgages or in enforcement of security, or as may be conveyed to it in satisfaction of debts previously contracted; provided that all the real estate, other than leasehold interests, shall be sold within five years after acquiring the same, subject to extension by the governor for additional periods not exceeding five years each, and that all the leasehold interests shall be sold within one year after acquiring the same, subject to extension by the governor for additional periods not exceeding one year each;

- (2) Government obligations, etc. Obligations of any of the following classes:
- (A) Obligations issued or guaranteed as to principal and interest by the United States or by any state thereof or by any municipal or political subdivision or school district of any of the foregoing; provided that principal of and interest on the obligations are payable in currency of the United States; or sovereign debt instruments issued by agencies of, or guaranteed by foreign governments;
- (B) Revenue bonds, whether or not permitted by any other provision hereof, of the State or any municipal or political subdivision thereof, including the board of water supply of the city and county of Honolulu, and street or improvement district bonds of any district or project in the State; and
- (C) Obligations issued or guaranteed by any federal home loan bank, including consolidated federal home loan bank obligations, the Home Owner's Loan Corporation, the Federal National Mortgage Association, or the Small Business Administration;

- (3) Corporate obligations. Below investment grade or nonrated debt instruments, foreign or domestic, in accordance with investment guidelines adopted by the board;
- (4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof or of any country;
- (5) Obligations eligible by law for purchase in the open market by federal reserve banks;
- (6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the African Development Bank;
- (7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth at the time the investment is made at least fifteen per cent more than the amount of the respective obligations;
- (8) Insurance company obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in Hawaii, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interests therein;
- (9) Interests in real property. Interests in improved or productive real property in which, in the informed opinion of the board, it is prudent to invest funds of the system. For purposes of this paragraph, "real property" includes any property treated as real property either by local law or for federal income tax purposes. Investments in improved or productive real property may be made directly or through pooled funds, including common or collective trust funds of banks and trust companies, group or unit trusts, limited partnerships, limited liability companies, investment trusts, title-holding corporations recognized under section 501(c) of the Internal Revenue Code of 1986, as amended, similar entities that would protect the system's interest, and other pooled funds invested on behalf of the system by investment managers retained by the system;
- (10) Other securities and futures contracts. Securities and futures contracts in which in the informed opinion of the board, it is prudent to invest funds of the system, including currency, interest rate, bond, and stock index futures contracts and options on the contracts to hedge against anticipated changes in currencies, interest rates, and bond and stock prices that might otherwise have an adverse effect upon the value of the system's securities portfolios; covered put and call options on securities; and stock; whether or not the securities, stock, futures contracts, or options on futures are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any limitation of any of the foregoing paragraphs (including paragraph (4)); and
- (11) Private placements. Investments in institutional blind pool limited partnerships, limited liability companies, or direct investments that make private debt and equity investments in privately held companies, including but not limited to investments in Hawaii high technology businesses or venture capital investments that, in the informed opinion of the board, are appropriate to invest funds of the system. In evaluating venture capital investments, the board shall consider, among other things, the impact an investment may have on job creation in Hawaii and on the state economy. The board shall report annually to the legislature on any Hawaii venture capital investments it has made; provided that if the board determines it is

not prudent to invest in any Hawaii venture capital investments the board shall report the rationale for the decision. The board, by January 1, 2008, shall develop criteria to determine the amount of funds that may be prudently invested in Hawaii private placement investments.’

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

SECTION 4. This Act shall take effect on July 1, 2007.

(Approved July 6, 2007.)

## ACT 261

S.B. NO. 1718

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Electrical Generation on the Island of Maui.

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

SECTION 1. The legislature finds that support for the development of renewable energy systems and efficient energy systems in the State, which is geographically isolated from sources of oil, continues to be in the public interest.

The legislature further finds that BlueEarth Maui Biodiesel, LLC, proposes to build biodiesel transesterification plants on the island of Maui. BlueEarth Maui Biodiesel, LLC, is engaged in the planning, design, and construction of a biodiesel refinery on Maui to supply a renewable source of electrical generation fuel replacing a portion of the petroleum-based feedstocks presently being used.

The legislature notes that special purpose revenue bonds are available to entities other than BlueEarth Maui Biodiesel, LLC.

SECTION 2. (a) 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. The legislature further finds that the issuance of special purpose revenue bonds and refunding of special purpose revenue bonds under this Act to assist BlueEarth Maui Biodiesel, LLC, in the planning, design, and construction of a biodiesel refinery on Maui will make the generation of electricity with renewable biofuels economically feasible and provide numerous benefits. Electrical generation with biodiesel fuel will:

- (1) Reduce dependence on imported fossil fuels for electrical generation, increasing Hawaii's energy security;
  - (2) Help to meet Hawaii's renewable energy goals by using existing generation assets with on-island produced renewable biodiesel;
  - (3) Reduce greenhouse-gas emissions via a renewable closed loop carbon system;
  - (4) Provide significant reductions of hydrocarbon, sulfur, toxic compounds, and particulate matter emissions compared to burning petroleum diesel; and
  - (5) Eliminate, with the completion of phase one of the project, the need to purchase and import up to forty million gallons of diesel per year. This amount will increase as phases two and three are completed.
- (b) Benefits from the BlueEarth Maui Biodiesel, LLC, project will include:
- (1) Encouraging local agricultural research, development, and cultivation of renewable energy feedstock crops on Hawaii to be used by the

- project that will stimulate locally grown biodiesel feedstock crops, such as palm and jatropha, bringing fallow agricultural lands back into production;
- (2) Providing biodiesel at competitive prices as compared to importation alternatives;
  - (3) Stimulating locally produced ethanol for use as a renewable component in the transesterification of vegetable oils into biodiesel;
  - (4) Generating substantial moneys in construction project spending over a period of multiple years as each of the three phases (approximately forty-million-gallon capacity added with each phase) is built; and
  - (5) Assisting the State, county of Maui, and the federal government to meet their goals and mandates for energy efficiency and renewable energy use.

SECTION 3. 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 a total amount not to exceed \$59,000,000, in one or more series, for the purpose of assisting BlueEarth Maui Biodiesel, LLC, with the construction of a biodiesel refinery on Maui with primary production volumes designated as fuel for electrical generation.

The legislature finds and determines that BlueEarth Maui Biodiesel, LLC's planning, design, and construction of a biodiesel refinery to supply a renewable source of electrical-generation fuel constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 4. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 5. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2012, to issue 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 3 and to refund 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 or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 3.

SECTION 6. As a condition precedent to the issuance of special purpose revenue bonds under this Act, BlueEarth Maui Biodiesel, LLC, or its affiliates shall give priority to utilizing Hawaii grown fuel stock when available and shall not import fuel stock that is the product of growth on farms where forests have been cleared to accommodate the growing of such crops. To receive bond financing under this Act, BlueEarth Maui Biodiesel, LLC, shall be required to import fuel stock produced only from sustainable sources; provided that BlueEarth Maui Biodiesel, LLC, and its affiliates shall document that sustainable sources are utilized; provided further that the documentation shall be transmitted or otherwise made available to the department of business, economic development, and tourism. The department of business, economic development, and tourism shall certify the documentation submitted and shall notify the department of budget and finance in writing as to whether BlueEarth Maui Biodiesel, LLC, and its affiliates are in compliance with this section

prior to the issuance of any special purpose revenue bonds being issued pursuant to this Act.

SECTION 7. Notwithstanding any law to the contrary, the interest in bonds issued under this Act shall be subject to state and federal income tax laws.

SECTION 8. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2012.

SECTION 9. This Act shall take effect on July 1, 2007.

(Approved July 6, 2007.)

## ACT 262

S.B. NO. 1946

A Bill for an Act Relating to Dam Safety.

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

SECTION 1. Chapter 179D, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

### “PART . DAM AND RESERVOIR SAFETY

**§179D-A Certificate of approval to impound.** No owner of a dam or reservoir shall impound water without a valid certificate of approval to impound water at the dam or reservoir.

**§179D-B Entry upon property.** (a) The department shall have the right to direct and conduct investigations as it may reasonably deem necessary to carry out its duties as prescribed in this part. For this purpose, the agents or employees of the department or any authorized representatives may enter at reasonable times, without prior notice, any property, public or private, for the purpose of investigating the condition, construction, or operation of any dam, reservoir, or other artificial barrier dealt with in this chapter; provided that if an emergency situation arises as determined by the department, the agents or employees of the department, or any authorized representatives shall have the right to enter without prior notice, any property, public or private, for the purpose of investigating the condition, construction, or operation of any dam, reservoir, or other artificial barrier subject to this chapter, and to take any remedial actions, without a search warrant or liability for trespass.

(b) It shall be unlawful for any person to refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials. It shall also be unlawful to obstruct, hamper, or interfere with any representative while in the process of carrying out the representative's official duties.

(c) Notwithstanding any other provision of law to the contrary, the board and its agents, engineers, and other employees, for the purposes of enforcing this chapter, may enter upon any land or water in the state that is the subject of an inspection, investigation, or remedial actions without a search warrant or liability for trespass.

**§179D-C Injunctive relief.** Whenever in the judgment of the department any person has engaged in or is about to engage in any act or practice that constitutes or will constitute an unlawful action under this chapter, the department may apply to

the circuit court of the county in which the unlawful act or practice has been or is about to be engaged in, or in which jurisdiction is appropriate, for an order enjoining the act or practice, or for an order requiring compliance with this chapter. Upon a showing by the department that a person has engaged in or is about to engage in any unlawful act or practice, a permanent or temporary injunction, restraining order, or other order shall be granted without the necessity of showing lack of an adequate remedy at law.

**§179D-D Emergency actions.** (a) If, in the opinion of the department, conditions of any dam or reservoir are so dangerous to the health and safety of life or property as to not permit time for issuance and enforcement of an order relative to construction, modification, maintenance, or repair of the dam or reservoir, or the dam or reservoir is threatened by any large flood or other natural disaster, the department may immediately employ remedial measures necessary to protect life and property.

(b) The department shall provide coordination and assistance to the proper state or county agency or agencies to maintain control of any dam or reservoir that, pursuant to subsection (a), has been determined to be dangerous to life or property until the dam or reservoir is deemed safe, or until any emergency conditions that precipitated taking control of the dam or reservoir, pursuant to subsection (a), have been abated. The department may determine the proper time at which to relinquish control of the dam or reservoir.

(c) Any necessary and reasonable costs and expenses incurred by the department in fulfilling the duties mandated by subsections (a) and (b) in connection with a remedial or emergency action shall be recoverable by the department from the owner of any dangerous or threatened dam or reservoir.

(d) Any owner failing or refusing, after written notice has been given, to pay the reasonable costs and expenses incurred by the department pursuant to subsection (c) shall be, upon complaint by the department to the attorney general, subject to reasonable attorney fees incurred in the recovery of the costs and expenses.

(e) All moneys collected by the department pursuant to subsection (c) shall be credited to the dam and reservoir safety special fund created in section 179D-E.

(f) If a condition arises that in the opinion of the department may pose a danger to the health and safety of persons or property and sufficient time permits, the board may issue orders reciting the existence of the condition and require any actions the board deems necessary. Any person to whom an order is directed, may challenge the order, but shall immediately comply with the order, pending disposition of the person's challenge. The board shall give precedence to a hearing on the challenge over all other pending matters.

(g) The legislature finds and declares that emergency actions under this section are in the public interest and for the public health, safety, and general welfare of the state, and authorizes the board to take any necessary actions.

**§179D-E Establishment of dam and reservoir safety special fund.** (a) There is established in the department a special fund, to be designated the dam and reservoir safety special fund. The fund shall be administered by the board. The following shall be deposited into the dam and reservoir safety special fund:

- (1) Appropriations by the legislature;
- (2) All fees and administrative charges collected under this chapter or any rule adopted thereunder;
- (3) Moneys collected as fines or penalties imposed under this chapter or any rule adopted thereunder;
- (4) Moneys derived from public or private sources to benefit dam and reservoir safety;

- (5) Moneys collected in full or partial satisfaction of liens created under this chapter;
  - (6) Any moneys collected from the sale of retail items by the department relating to dam and reservoir safety;
  - (7) Any other moneys collected pursuant to this chapter or any rules adopted thereunder; and
  - (8) Moneys derived from interest, dividends, or other income from other sources.
- (b) The board may expend moneys from the dam and reservoir safety special fund for:
- (1) Conducting investigations, research, and the collection of data, including technological advances made in dam and reservoir safety practices elsewhere;
  - (2) Conducting investigations, monitoring, and inspection programs and activities, and enforcement;
  - (3) Preparing and disseminating information to the public concerning activities authorized under this chapter;
  - (4) Training and providing educational activities for department staff and dam and reservoir owners;
  - (5) Employing any necessary remedial measures to protect persons and property in accordance with this chapter;
  - (6) The costs and expenses of the coordination, assistance, control, regulation, abatement, and inspection provided by this chapter; and
  - (7) Other purposes for the administration of the dam and reservoir safety program under this chapter or any rule adopted thereunder, including but not limited to funding permanent or temporary positions that may be appointed without regard to chapter 76.

The board shall provide coordination and assistance to the proper state or county agency or agencies to control any dam, reservoir, and appurtenances subject to section 179D-D until they have been rendered safe or the emergency has terminated.

(c) Moneys on balance in the dam and reservoir safety special fund at the close of each fiscal year shall remain in that fund and shall not be transferred or lapsed to the credit of the general fund.

**§179D-F Liens.** (a) Costs of construction, enlargement, repair, alteration, or removal work done to render a dam, reservoir, or appurtenances safe shall constitute a statutory lien against all property of the owner. Notwithstanding any other law to the contrary, the lien shall be considered prior and superior to all other mortgages, liens, or encumbrances of record even if those other mortgages, liens, or encumbrances were filed before the lien pursuant to this subsection becomes due.

(b) Liens pursuant to subsection (a) may be perfected and foreclosed in advance of construction, enlargement, repair, alteration, or removal or after completion of the construction, enlargement, repair, alteration, or removal. If perfected in advance, the lien shall be perfected by the filing of an affidavit of the board setting forth the estimate of the costs of construction, enlargement, repair, alteration, or removal within the county in which the dam or reservoir is located in the same manner as prescribed for mechanic's liens. When the affidavit is filed, the amount set forth in the affidavit shall be a lien in that amount against all property of the owner. If the actual cost of construction, enlargement, repair, alteration, or removal exceeds the estimated cost, the board may amend the affidavit setting forth the additional estimated cost. If the estimated cost exceeds the actual costs of construction, enlargement, repair, alteration, or removal at completion, the board shall file an amended affidavit at completion. If a lien is perfected in advance and the construction, enlargement, repair, alteration, or removal is not commenced within two years

from the date of perfection, the lien shall be void. The board shall file a satisfaction of lien upon payment of the costs of construction, enlargement, repair, alteration, or removal by the owner.

**§179D-G Dams and reservoirs completed prior to effective date of this**

**Act.** (a) Every owner of a dam or reservoir that falls within the definition of a dam or reservoir in this chapter and was completed prior to the effective date of this Act shall file with the board a separate application for a certificate of approval to impound and any other supporting information as required by the board for each dam or reservoir. Each application shall also be accompanied by application fees as required by the board. During the application process for a certificate of approval to impound, the owner or operator of a dam or reservoir may continue to impound water, unless the board determines that the dam or reservoir may pose a danger to the health and safety of persons or property.

(b) The board shall give notice to file an application for certificate of approval to impound to owners of dams or reservoirs who have failed to file such applications as required by this chapter.

(c) The notice provided for in this section shall be delivered by certified mail to the owner at the owner's last address of record in the office of the county tax assessor in which the dam or reservoir is located. The mailing shall constitute service.

(d) The board shall make inspections of any dams and reservoirs, unless the data, records, and inspection reports on file with it are found adequate to enable a determination of whether or not the certificate of approval to impound should be issued.

(e) The board shall require owners of the dams and reservoirs to perform at their expense any work or tests as may reasonably be required to disclose information sufficient to enable the board to determine whether to issue certificates of approval to impound, or to issue orders directing further work at the owner's expense necessary to safeguard life and property. For this purpose, the board may require an owner or operator to lower the water level of, or to drain, the dam or reservoir.

(f) If, upon inspection or upon completion to the satisfaction of the board of all work that may be ordered, the board finds that the dam and reservoir are safe to impound water, a certificate of approval to impound shall be issued. The board may find that the dam or reservoir will not safely impound water and may refuse to issue a certificate of approval to impound. Upon finding that the dam or reservoir is unsafe to impound water, the board shall issue a written notice to the owner. After receipt of the notice, the owner shall no longer cause or allow the dam and reservoir to impound water.

**§179D-H Dams and reservoirs under construction, enlargement, repair, alteration, or removal before effective date of this Act.**

(a) Any dam or reservoir that falls within the definitions of a dam or reservoir in this chapter and which the board finds was under construction, enlargement, repair, alteration, or removal, and based on its findings not more than ninety per cent constructed, enlarged, repaired, altered, or removed on the effective date of this Act, except as provided in subsection (b), shall be subject to the same provisions in this section as a dam or reservoir commenced after that date. Every owner of a dam or reservoir subject to this section shall file an application with the board for the board's written application approval of the plans and specifications for the dam or reservoir.

(b) Construction, enlargement, repair, alteration, or removal work on the dam or reservoir may proceed; provided an application for approval of the plans and specifications is filed; until:

- (1) An application approval is received by the owner approving the dam or reservoir; or
- (2) An order is received by the owner specifying how the construction, enlargement, repair, alteration, or removal must be performed to render the dam or reservoir safe.

After receipt of an application approval or order specifying how construction, enlargement, repair, alteration, or removal of the dam or reservoir must be performed, work thereafter must be in accordance with the application approval or order.

**§179D-I Annual report.** The department shall submit an annual report to the governor and the legislature by January 5 of each year concerning the activities of the department relating to this chapter for the preceding fiscal year. The report shall include but not be limited to information on the following:

- (1) Approvals of plans and specifications for the construction of dams and reservoirs and for alterations, modifications, repairs, removal, and enlargements of any dams and reservoirs;
- (2) A listing of dam and reservoir safety inspections made;
- (3) Use of appropriated funds;
- (4) Rules adopted or amended;
- (5) Enforcement orders and proceedings;
- (6) Dam and reservoir failures and department evaluations of the reasons for the failure, if known; and
- (7) Any other available data regarding the effectiveness of the State's dam and reservoir safety program.

**§179D-J Dam and reservoir owners; general requirements and responsibilities.** Dam and reservoir owners subject to regulation under this chapter shall, among other general requirements and responsibilities:

- (1) Maintain an operation and maintenance plan, including an owner or operator, as the case may be, inspection and monitoring program, with written, regularly scheduled reports to the board, to maintain and keep the structure, its appurtenant works, and access in the state of repair and operating condition required by the exercise of due care, with regard for the safety of persons or property, sound and accepted engineering principles, and the rules adopted by the board;
- (2) Establish an emergency action plan for high and significant hazard potential dams and reservoirs and provide this plan to the board, state and county civil defense agencies, and other necessary parties, with regard for the safety of persons or property, sound and accepted engineering principles, and the rules adopted by the board;
- (3) Cooperate with the board's agents, engineers, and employees in carrying out this chapter;
- (4) Facilitate access by any necessary state agencies or authorized representative, to the dam, reservoir, or appurtenances. Access by a four-wheeled-drive vehicle to the dam or reservoir site, and appurtenances if required by the board, shall be maintained at all times; provided that if vehicular access to the dam or reservoir site cannot be maintained during periods of inclement weather, the dam or reservoir owner for high and significant hazard potential dams or reservoirs shall have redundant early warning systems in place, as approved by the board; and
- (5) Furnish upon request the plans, specifications, operating and maintenance data, or other information that is pertinent to the dam and reservoir structure and appurtenances as indicated in this chapter."

SECTION 2. Chapter 179D, Hawaii Revised Statutes, is amended by designating section 179-1 to 179-9 as part I, entitled:

**“PART I. GENERAL PROVISIONS”**

SECTION 3. Section 179D-1, Hawaii Revised Statutes, is amended to read as follows:

“**[H]§179D-1** **Short title.** This chapter shall be known and may be cited as the “Hawaii Dam and Reservoir Safety Act of [1987’-] 2007’.”

SECTION 4. Section 179D-2, Hawaii Revised Statutes, is amended to read as follows:

“**[H]§179D-2** **Declaration of purpose.** The purpose of this chapter is to provide for the inspection and regulation of construction, enlargement, repair, alteration, maintenance, operation, and removal of [~~certain~~] all<sup>1</sup> dams [~~in order~~] or reservoirs to protect the health, safety, and welfare of the citizens of the [~~State~~] state by reducing the risk of failure of [~~such~~] the dams[~~;~~] or reservoirs. The legislature finds and declares that the inspection and regulation of [~~construction, operation, and removal of certain~~] all dams or reservoirs are properly a matter of regulation under the police powers of the State[~~;~~], unless specifically exempted.

The board shall have jurisdiction of all dams and reservoirs until the department has completed its statewide inspections and has established and implemented rules and criteria for a five year dams and reservoirs inspection and classification processes and the board declares which dams or reservoirs are to be removed from its jurisdiction.”

SECTION 5. Section 179D-3, Hawaii Revised Statutes, is amended to read as follows:

“**[H]§179D-3** **Definitions.** The following terms, whenever used and referred to in this chapter, shall have the following [~~respective~~] meanings, unless a different meaning clearly appears in the context:

“Application approval” means authorization in writing issued by the board to an owner who has applied to the board for permission to construct, enlarge, repair, alter, remove, maintain, or operate a dam or reservoir and that specifies the condition or limitations under which work is to be performed by the owner or under which approval is granted.

“Appurtenant works” or “appurtenance” means any structure, such as spillways[~~;~~ either] in the dam or separate therefrom, the reservoir and its rim, low level outlet works, and water conduits, such as tunnels, pipelines, or penstocks, [either] through the dam or its abutment.

“Board” means the board of land and natural resources.

“Certificate of approval to impound” means authorization in writing issued by the board to an owner of an existing dam or reservoir, or an owner who has completed construction, enlargement, repair, or alteration of a dam or reservoir, that specifies the conditions or limitations under which the dam or reservoir is to be maintained and operated.

“Dam” means any artificial barrier, including appurtenant works[~~;~~ which] that impounds or diverts water[~~;~~] and [which:] that:

- (1) Is twenty-five feet or more in height from the natural bed of the stream or watercourse measured at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier if it is not across a

stream channel or watercourse to a maximum water storage elevation; [or]

- (2) Has an impounding capacity at maximum water storage elevation of fifty acre-feet or more. This chapter [does] shall not apply to any artificial barrier [which] that is less than six feet in height regardless of storage capacity or [which] that has a storage capacity at maximum water storage elevation less than fifteen acre-feet regardless of height[-]; or
- (3) Meets additional criteria or is specifically exempt as determined pursuant to rules adopted by the board.

“Department” means the department of land and natural resources.

“Emergency” includes but is not limited to breaches and all conditions leading to or causing a breach, overtopping, or any other condition in a dam or reservoir and its appurtenant works that may be construed as unsafe or threatening to life and property.

“Enlargement” means any change in or addition to an existing dam or reservoir that raises or may raise the water storage elevation of the water impounded by the dam or reservoir.

“Hazard potential” means the possible adverse incremental consequences that result from the release of water or stored contents due to the failure of the dam or reservoir or the misoperation of the dam, reservoir, or appurtenances. The hazard potential classification of a dam or reservoir shall not reflect in any way on the current condition of the dam or reservoir and its appurtenant works, including the dam’s or reservoir’s safety, structural integrity, or flood routing capacity.

“High hazard” means a dam’s or reservoir’s failure will result in probable loss of human life.

“Low hazard” means a dam’s or reservoir’s failure will result in no probable loss of human life and low economic loss or environmental loss, or both. Economic losses are principally limited to the owner’s property.

“Operator” means any person who controls, manages, maintains, or supervises the condition and functions of a dam or reservoir.

“Owner” means any person who [owns, controls, operates, maintains, manages, or proposes to construct a dam or reservoir:] has a right, title, or interest in or to the dam or reservoir or to the property upon which the dam, reservoir, or appurtenant works is located or proposed to be located.

“Person” means [any individual, partnership, corporation, company, association, organization, the State and its departments and agencies, and the political subdivisions of the State.] any natural person, partnership, firm, association, organization, corporation, county, county authority, trust, receiver or trustee, limited liability company, limited liability partnership, or company, or any state department, agency, or political subdivision, or any other commercial or legal entity. Whenever used in a section prescribing and imposing a penalty or sanction, the term “person” includes the members of an association or organization, and the officers of a corporation, company, county, or county authority.

“Physical clear access” means a roadway or path that allows timely access for inspection to a dam, reservoir, and its appurtenant works. If by a roadway, the roadway shall be maintained in an accessible condition by a four-wheel drive vehicle even during inclement weather conditions.

“Probable” means more likely than not to occur; reasonably expected; realistic.

“Removal” means complete or partial elimination of the dam or reservoir embankment or structure to restore the approximate original topographic contours of the valley.

“Reservoir” means any basin [which] that contains or will contain water impounded by a dam[-], including appurtenant works.

“Significant hazard” means a dam’s or reservoir’s failure will result in no probable loss of human life but can cause major economic loss, environmental damage, disruption of lifeline facilities, or impact other concerns. Significant hazard potential classification dams or reservoirs are often located in predominantly rural or agricultural areas but could be located in areas with population and significant infrastructure.”

SECTION 6. Section 179D-4, Hawaii Revised Statutes, is amended to read as follows:

**“[H]§179D-4[.] Liability for damages.** (a) Nothing contained in this chapter shall be construed to constitute a waiver of any immunity of the State and no action or failure to act under this chapter shall be construed to create any liability in the State, board, department, or its officers or employees, for the recovery of damages caused by [sueh] the action or failure to act.

(b) Nothing in this chapter and no order, action, or advice of the State, board, department, or any representative thereof, shall be construed to relieve an owner or operator of a dam or reservoir of the legal duties, obligations, or liabilities incident to the ownership or operation of a dam or reservoir; provided that an owner or operator of a dam or reservoir shall not be liable for damages as a result of only natural causes such as earthquakes[.] of an average recurrence interval of one thousand years, hurricanes, or extraordinary rains of an average recurrence interval in excess of two hundred fifty years.

(c) The State assumes no ownership obligations, responsibilities, or liability for any action pursuant to section 179D-D.”

SECTION 7. Section 179D-6, Hawaii Revised Statutes, is amended to read as follows:

**“[H]§179D-6[.] General powers and duties of the board of land and natural resources.** (a) All dams or reservoirs in the State shall be under the jurisdiction of the board until the board declares which dams or reservoirs are to be removed from its jurisdiction.

(b) ~~The board [of land and natural resources]~~ shall administer the dam and reservoir safety program established by this chapter. In carrying out this chapter, the board shall cooperate, advise, consult, contract, and enter into cooperative agreements with the United States government or any of its agencies, other state agencies, and the county governments or any of their agencies. In the performance of its duties, the board shall:

- (1) Establish by rules adopted under chapter 91, [sueh] policies, requirements, or standards governing the design, construction, operation, maintenance, enlargement, alteration, repair, removal, and inspection of dams, reservoirs, and appurtenant works for the protection of life and property from structural failure of dams and reservoirs;
- (2) Conduct investigations and the collection of data, including technological advances made in dam and reservoir safety practices elsewhere, as may be needed for the proper review and study of the various features of the design, construction, repair, removal, inspection, operation, maintenance, alteration, and enlargement of dams, reservoirs, and appurtenant works. The board may require submittal of reports of investigations from all owners;
- (3) Conduct investigations and require reports from all owners to be made from time to time, [sueh-as] including watershed investigations and

- studies, as may be necessary to keep abreast of developments affecting stream runoff and as required to facilitate its decisions;
- (4) Be authorized to enter upon such private property of the dam or reservoir as may be necessary in making, at the owner's expense, any investigation or inspection required or authorized by this chapter. The entry shall not constitute a cause of action in favor of the owner of the land, except for damages resulting from wilful acts or negligence by the board or its agents;
  - (5) Require the owners to apply for, and obtain from the board written approval of plans and specifications on the construction of any new dam or reservoir or the enlargement of any dam or reservoir prior to commencement of any work;
  - (6) Require the owners to file an application and secure the written approval of the board before commencing the repair, alteration, or removal of a dam or reservoir, including the alteration or removal of a dam or reservoir so that it no longer constitutes a dam or reservoir as defined in this chapter. Repairs shall not be deemed to apply to routine maintenance not affecting the safety of the structure;
  - ~~(7) Require filing fees by rules to accompany each application as required under the provisions of this chapter.]~~
  - (7) Require owners to secure the written approval of the board to impound water;
  - (8) Require fees to cover the board's costs in carrying out the administration of dam and reservoir safety;
  - (9) Cooperate with all public and private agencies created for the purpose of enhancing dam and reservoir safety activities and training, assist these organizations and agencies in coordinating the use of their facilities, and participate in the exchange of ideas, knowledge, and data with these organizations and agencies;
  - (10) Prepare, publish, and issue printed pamphlets, bulletins, or advisories, or conduct training as the board deems necessary for the dissemination of information to the public;
  - (11) Appoint and remove agents and employees, including hearing officers, specialists, and consultants, as necessary to carry out the purposes of this chapter, who may be engaged by the board without regard to the requirements of chapter 76;
  - (12) Catalog and maintain an inventory of all regulated dams and reservoirs in the State pursuant to this chapter without regard to chapter 91;
  - (13) Establish similar or consistent hazard potential classifications in conjunction with other applicable state or federal guidelines for all regulated dams and reservoirs in the State pursuant to this chapter without regard to chapter 91;
  - (14) Examine and approve or disapprove applications for approval of construction, enlargement, repair, alteration, or removal of a dam or reservoir and applications for certificates of approval to impound;
  - (15) Order the suspension, revocation, or both, of any application approval or certificate of approval to impound for any act or failure to comply with this chapter or with any rules or orders adopted pursuant to this chapter, or with any of the conditions contained in or attached to the application approval or certificate of approval to impound;
  - (16) Issue orders requiring the adoption by an owner of remedial measures necessary for the safety of life or public or private property, or for carrying out this chapter or rules issued under this chapter;

- (17) Order the immediate cessation of any act that is started or continued without an application approval or certificate of approval to impound as required by this chapter;
- (18) Enter private property and immediately take actions necessary to provide protection to life or property at the owner's expense, including removal of the dam or reservoir. The entry shall not constitute a cause of action in favor of the owner of the land, except for damages resulting from wilful acts or gross negligence by the board or its agents;
- (19) Recover from the owner, in the name of the State, the expenses incurred in taking any action required by the owner of the dam or reservoir in the same manner debts are recoverable by law;
- (20) Assess civil penalties for violation of this chapter or any rule or standard adopted or order issued by the board pursuant to this chapter;
- (21) Place liens, as needed, on the owner's property, to be collected as delinquent taxes against the lands and property, if the owner neglects to pay any costs, expenses, or penalties chargeable to the owner under this chapter or any rule, order, or condition adopted, issued, or required under this chapter;
- (22) With the assistance of the attorney general, institute and prosecute all court actions that may be necessary to obtain the enforcement of any order issued by the board in carrying out this chapter; and
- (23) Take any and all other actions as may be necessary to carry out this chapter."

SECTION 8. Section 179D-7, Hawaii Revised Statutes, is amended to read as follows:

“[E]§179D-7[H] Administrative and judicial review. (a) The findings and order of the board, and the board's approval or disapproval of an application issued by the State are final, conclusive, and binding upon all owners, state agencies, and other government agencies, regulatory or otherwise, as to the safety of design, construction, enlargement, repair, alteration, removal, maintenance, and operation of any dam or reservoir. The board's approval of an application or a certificate of approval to impound shall not be considered final if it can be demonstrated to the board that the board's approval of the relevant application or certificate of approval was based on one or more misrepresentations.

(b) Any person who is aggrieved or adversely affected by an order or action of the board shall be entitled to administrative and judicial review in accordance with chapter 91[-]; provided that the order or action shall remain in force until modified or set aside on appeal.”

SECTION 9. Section 179D-8, Hawaii Revised Statutes, is amended to read as follows:

“[E]§179D-8[H] Violations; penalties. [Any person violating any provision of this chapter or any permit condition or limitation established pursuant to this chapter or negligently or wilfully failing or refusing to comply with any final order of the board issued as provided herein, shall be liable for a civil penalty not to exceed \$500 for each day during which said violation continues.] (a) Except as otherwise provided by law, the board may set, charge, and collect administrative penalties and recover administrative fees and costs, including attorney's fees and costs, or bring legal action to recover administrative penalties, fees, and costs, including attorney's fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of this chapter or any rule, order, or condition adopted, issued, or

required under this chapter. The administrative penalty shall not exceed \$25,000 per day of a violation, and each day during which the violation continues shall constitute an additional, separate, and distinct violation. The board shall effectuate rules, procedures, and fee schedules to carry out the purposes of this section.

(b) Any person who negligently or after written notice to comply, violates this chapter or any rule, order, or condition adopted, issued, or required under this chapter, or knowingly obstructs, hinders, or prevents the department's agents or employees from performing duties under this chapter, shall be guilty of a class C felony, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction, by a mandatory fine of not less than \$2,500 but not more than \$25,000 per day of violation, imprisonment, or both; and
- (2) For a second or subsequent conviction, by a mandatory fine of not less than \$5,000 but not more than \$50,000 per day of violation, imprisonment, or both.

(c) Any criminal action against a person for any violation of this chapter shall not preclude the State from pursuing civil legal action to recover administrative penalties, fees, and costs against that person. Any civil action against a person to recover administrative penalties, fees, and costs for any violation of this chapter or any rule, order, or condition adopted, issued, or required under this chapter shall not preclude the State from pursuing any criminal action against that person.

(d) With the assistance of the attorney general, the board may seek an injunction and damages in the enforcement of this chapter.

(e) All penalties, fees, and costs collected pursuant to this section or rules adopted by the board pursuant to this chapter, shall be deposited in the dam and reservoir safety special fund."

SECTION 10. Section 179D-9, Hawaii Revised Statutes, is amended to read as follows:

**“[H]§179D-9[H] Enactment of rules.** The department shall adopt the necessary rules not later than one and one-half years after [~~June 6, 1987.~~] July 1, 2007.”

SECTION 11. Section 179D-5, Hawaii Revised Statutes, is repealed.

SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000 for fiscal year 2007-2008 and the same sum for fiscal year 2008-2009 to be deposited into the dam and reservoir safety special fund.

SECTION 13. There is appropriated out of the dam and reservoir safety special fund the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 to carry out the purposes of the dam and reservoir safety special fund.

The sums appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 14. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 15. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

## ACT 263

SECTION 16. Statutory material to be repealed is bracketed and stricken.<sup>2</sup> New statutory material is underscored.

SECTION 17. This Act shall take effect upon its approval; provided that sections 12 and 13 shall take effect on July 1, 2007.

(Approved July 6, 2007.)

### Notes

1. "All" should be underscored.
2. Edited pursuant to HRS §23G-16.5.

## ACT 263

H.B. NO. 18

A Bill for an Act Relating to Education.

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

SECTION 1. In 2001, the twenty-first legislature of the State of Hawaii transferred the responsibility for the licensing of teachers from the department of education to the Hawaii teacher standards board. This was based on the recommendations made by the Hawaii Policy Group of the National Commission on Teaching and America's Future, a national organization with twenty-three partner states, including Hawaii. By authorizing the Hawaii teacher standards board to assume responsibility for teacher licensing, the legislature sought to strengthen the teaching profession by making it self-governing and accountable for who becomes and remains licensed to teach in Hawaii. Like other professional counterparts, such as the board of medical examiners for doctors and the Hawaii State Bar Association for lawyers, the Hawaii teacher standards board is authorized to issue, renew, revoke, suspend, and reinstate licenses for individuals desiring to pursue the licensed profession in our State.

Over the past four years, the Hawaii teacher standards board has carried out its licensing responsibilities as described by law and, in doing so, has learned that its statutory powers and duties now seem to require clarification. Specifically, the power to suspend its rules needs to be further clarified. Adding statutory language to this effect will help to expedite the Hawaii teacher standards board's ability to perform its duties.

The purpose of this Act is to:

- (1) Authorize the Hawaii teacher standards board to suspend its rules on a case by case basis when extenuating circumstances require it to do so; and
  - (2) Enable the Hawaii teacher standards board to amend certain fees and set or amend other charges related to the performance of its duties;
- provided that these actions shall be in accordance with chapter 92, Hawaii Revised Statutes.

SECTION 2. Section 302A-803, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-803 Powers and duties of the board.** (a) In addition to establishing standards for the issuance and renewal of licenses and any other powers and duties authorized by law, the board's powers shall also include:

- (1) Setting and administering its own budget;

- (2) Adopting, amending, or repealing~~[-or suspending the policies, standards, or]~~ the rules of the board in accordance with chapter 91;
- (3) Receiving grants or donations from private foundations, and state and federal funds;
- (4) Submitting an annual report to the governor and the legislature on the board's operations and from the 2007-2008 school year, submitting a summary report every five years of the board's accomplishment of objectives, efforts to improve or maintain teacher quality, and efforts to keep its operations responsive and efficient;
- (5) Conducting a cyclical review of standards and suggesting revisions for their improvement;
- (6) Establishing licensing fees in accordance with chapter 91, including the collection of fees by means of mandatory payroll deductions, which shall subsequently be deposited into the state treasury and credited to the Hawaii teacher standards board special fund;
- (7) Establishing penalties in accordance with chapter 91;
- (8) Issuing, renewing, revoking, suspending, and reinstating licenses;
- (9) Reviewing reports from the department on individuals hired on an emergency basis;
- (10) Applying licensing standards on a case-by-case basis and conducting licensing evaluations;
- (11) Preparing and disseminating teacher licensing information to schools and operational personnel;
- (12) Approving teacher preparation programs;
- (13) Administering reciprocity agreements with other states relative to licensing;
- (14) Conducting research and development on teacher licensure systems, beginning teacher programs, the assessment of teaching skills, and other related topics;
- (15) Participating in efforts relating to teacher quality issues, conducting professional development related to the board's standards, and promotion of high teacher standards and accomplished teaching; and
- (16) Adopting applicable rules and procedures.

(b) If, in accordance with chapter 92, the board determines, on a case by case basis, that extenuating circumstances exist to justify the suspension, the board may temporarily suspend its rules, or any portion thereof. The board shall establish, in accordance with chapter 91, procedures for the suspension of its rules. When determining whether to suspend its rules, the board shall also establish the length of time for which the suspension shall be in effect.

(c) The board, in accordance with chapter 92, may also amend licensing-related fees and set or amend other charges related to the performance of its duties.'

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

SECTION 4. This Act shall take effect on July 1, 2007; provided that on July 1, 2009, section 2 of this Act shall be repealed and section 302A-803, Hawaii Revised Statutes, shall be reenacted in the form in which it read on June 30, 2007.

(Approved July 7, 2007.)

A Bill for an Act Relating to the Hawaii Tobacco Settlement Special Fund.

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

SECTION 1. Section 328L-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The fund shall be used for the purpose of receiving, allocating, and appropriating the tobacco settlement moneys as follows:

- (1) Twenty-four and one-half per cent shall be appropriated into the emergency and budget reserve fund under section 328L-3;
- (2) Thirty-five per cent shall be appropriated to the department for purposes of section 328L-4;
- (3) Twelve and one-half per cent shall be appropriated into the Hawaii tobacco prevention and control trust fund under section 328L-5; and
- (4) Twenty-eight per cent shall be appropriated into the university revenue-undertakings fund created in section [304A-2167], to be applied ~~[solely]~~ to the payment of the principal of and interest on, and to generate required coverage, if any, for, revenue bonds issued by the board of regents of the University of Hawaii to finance the cost of construction of a university health and wellness center, including a new medical school facility, to be situated on the island of Oahu, for the succeeding fiscal year; and the payment of annual operating expenses incurred by the new medical school facility; provided that any moneys in excess of the ~~[amount]~~ amounts required ~~[to pay principal of and interest on, and to generate required coverage, if any, for such revenue bonds in any fiscal year,]~~ under this paragraph shall be transferred [as follows:] in the succeeding fiscal year in the following amounts:
  - (A) To the emergency and budget reserve fund under section 328L-3~~;~~ —eighty per cent of the excess; and
  - (B) To the Hawaii tobacco prevention and control trust fund under section 328L-5~~;~~ —twenty per cent of the excess~~;~~

~~in the succeeding fiscal year].”~~

SECTION 2. The department of health and the University of Hawaii shall prepare a detailed accounting of all revenues and expenditures relating to:

- (1) The thirty-five per cent of moneys appropriated to the department of health for purposes of section 328L-4;
- (2) Moneys appropriated into the Hawaii tobacco prevention and control trust fund under section 328L-5;
- (3) Moneys appropriated into the university revenue-undertakings fund created in section 304A-2167; and
- (4) Any moneys used for the operating costs of the medical school facility.

This information shall be submitted to the legislature no later than thirty days prior to the convening of the regular session of 2009.

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

SECTION 4. This Act shall take effect on July 1, 2007, and shall be repealed on June 30, 2011.

(Approved July 9, 2007.)

## ACT 265

S.B. NO. 1833

A Bill for an Act Relating to Family Leave.

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

SECTION 1. The legislature finds that various companies are arbitrarily exhausting an employee's accrued vacation time while the employee is out on family leave, as current law allows either the employer or employee to decide which type of leave to apply to a period of family leave. The legislature further finds that only the employee should make the decision to take family leave as unpaid leave, or to substitute the unpaid leave with accrued vacation, personal, or paid family leave.

The purpose of this Act is to provide an employee, not an employer, the option to substitute accrued paid leave, including vacation, personal, or family leave, for any part of the four-week period allowed for family leave.

SECTION 2. Section 398-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except as otherwise provided in subsection (c), an employee [~~or employer~~] may elect to substitute any of the employee's accrued paid leaves, including but not limited to vacation, personal, or family leave for any part of the four-week period in subsection (a).”

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 266

H.B. NO. 899

A Bill for an Act Relating to Integrated Strategies for Statewide Food and Energy Crop Production.

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

SECTION 1. The legislature finds that with growing concerns over Hawaii's dependence on fossil fuels to satisfy its agriculture and energy needs, it is increasingly in the State's best interest to address these problems through integrated strategies that are cost competitive. One solution to Hawaii's dependence on fossil fuels for fertilizer and energy is the utilization of charcoal produced locally from biomass as a permanent soil additive.

The Hawaiian Islands, particularly the older islands such as Kauai, have heavily-leached soils with very low nutrient content and almost no potassium or phosphorus available for potential uptake by vegetation or agricultural crops. Agricultural crop yields for use as food and clean energy feedstocks are strongly dependent on sufficient levels of available nutrients for plant uptake. Thus, a major determinant of a successful and sustainable agricultural venture in Hawaii will be achieving an adequate, sustainable fertilizer regime.

The use of biomass-derived charcoal as a tropical soil additive has been verified by modern science as a carbon negative process and used for agricultural purposes since ancient times by indigenous communities in other tropical regions

around the world. Activities like charcoal formation are carbon negative in that carbon in the form of carbon dioxide or methane gas (greenhouse gases) can be permanently sequestered in the manufactured charcoal. This is significant because the combustion of fossil fuels for activities like transportation and electricity generation has led to unnaturally elevated concentrations of carbon dioxide and other greenhouse gases being released into the atmosphere. These gases persist in the atmosphere, trapping warm air that would otherwise have dispersed beyond the earth's atmosphere into space, unfortunately causing human-induced global warming. Formal economic models estimate that if we do not act now to counter human-accelerated global warming, the negative cost to global ecosystems, society, and our economy will likely be substantial.

It is possible that through the production process of biomass-derived charcoal for soil nutrient enhancement purposes, positive net energy may be produced to satisfy community electrical needs while at the same time reducing carbon dioxide levels in the atmosphere. This process has the potential to not only assist in reducing Hawaii's dependence on petroleum-based products, but also decrease the absolute quantities of fertilizer that need to be applied to agricultural lands for crop production. This suggests that runoff from agricultural lands may in turn contain lower levels of nutrients that in high concentrations are known to have significant negative impacts on freshwater and marine ecosystems. Additionally, large quantities of carbon can potentially be sequestered through the production of charcoal soil enhancements, thereby permanently sequestering carbon-based greenhouse gases being emitted into the atmosphere and contributing to human-induced global warming.

Therefore, comprehensive agricultural management strategies would not only lead to long-term economic stability of Hawaii's agrarian-based industries, but also facilitate positive stewardship of state lands by reducing levels of contaminated sediments in statewide waterways and surrounding ocean waters, as well as greenhouse gases building up in the atmosphere causing accelerated global warming.

Further, integrated agricultural management strategies build partnerships between local communities and state and federal agencies and strengthen the overall economy as well as statewide environmental protection efforts. State funds appropriated for the research and development of a pilot project and associated community outreach technologies have the potential to obtain matching federal funds from existing programs such as the Environmental Protection Agency, United States Department of Agriculture, United States Department of Energy, Farm Service Agency, and National Science Foundation. Investments from private industry may also be available due to the economic viability of taking these newly-emerging technologies quickly to market.

The purpose of this Act is to appropriate funds during phase 1 to develop and demonstrate ecologically-sustainable strategies to amend soil fertility for the production of clean energy feedstocks and food crops and to create public engagement mechanisms and tools to educate the public about sustainable agriculture issues faced by the state and move towards stakeholder consensus.

**SECTION 2.** During phase 1, scientists with the University of Hawaii center for conservation research and training shall conduct research and development, as well as monitor the ecological impact of strategies being researched and tested. This work shall identify and test charcoal additive strategies consistent with integrated watershed management practices to establish the best means to improve the nutrient levels in soils, lessen the State's dependence on imported fossil fuels, sequester carbon in the atmosphere, and mitigate existing problems, such as nutrient flows into waterways.

The phase 1 integrated research of potential soil nutrients enhancement strategies and mechanisms conducted by stakeholders shall include but not be limited to:

- (1) Physical, chemical, and biological soil characteristics;

- (2) Carbon sequestration in relation to global warming;
- (3) Software and web-based stakeholder engagement tools;
- (4) Existing and future agricultural land uses;
- (5) Relevant community organizations and functions; and
- (6) Relevant state and federal institutional functions.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$450,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the University of Hawaii center for conservation research and training during phase 1 to develop the best strategies consistent with comprehensive agricultural management practices to facilitate sustainable production of crops through long-term enhancement of soil quality using ecologically-responsible means.

The sum appropriated shall be expended by the University of Hawaii center for conservation research and training for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 267

H.B. NO. 1083

A Bill for an Act Relating to High Technology.

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

SECTION 1. The purpose of this Act is to build on the successes of Hawaii's science and technology industries and establish a research and development follow-on funding program for Hawaii-based small businesses that received federal funding through the Hawaii Technology Development Venture or the National Defense Center of Excellence for Research in Ocean Sciences.

SECTION 2. (a) Notwithstanding the requirements of chapter 42F, Hawaii Revised Statutes, there is established in the Hawaii strategic development corporation a research and development follow-on funding program for Hawaii-based small businesses that received federal funding through the Hawaii Technology Development Venture or the National Defense Center of Excellence for Research in Ocean Sciences.

The purpose of these awards shall be to:

- (1) Provide accelerated economic development in the fields of science and engineering of defense-related dual-use technology by providing follow-on funding to successful research and development projects for technology development, transition, and commercialization;
  - (2) Provide capital to sustain high-growth new venture company infrastructure development to assist the enterprise toward commercial success;
  - (3) Promote high-quality, high-income job opportunities for Hawaii's residents and graduates of Hawaii's educational institutions;
  - (4) Reverse the "brain drain" by allowing talented scientists and engineers to return home to living-wage jobs in Hawaii; and
  - (5) Keep the high technology companies in Hawaii by limiting the need to seek out-of-state venture capital, which dilutes local ownership.
- (b) The Hawaii Technology Development Venture shall subcontract with selected companies and provide program oversight.

(c) To receive funding, a Hawaii-based company shall:

- (1) Show satisfactory performance in any projects funded through the Hawaii Technology Development Venture or the National Defense Center of Excellence for Research in Ocean Sciences;
- (2) Submit proposals to the Hawaii Technology Development Venture for follow-on funding in accordance with the respective program requirements; provided that a substantial portion of the work under the award shall be performed in the state;
- (3) Submit a budget based on parameters set forth by the Hawaii Technology Development Venture;
- (4) Execute agreements in accordance with existing Hawaii Technology Development Venture or the National Defense Center of Excellence for Research in Ocean Sciences contracting requirements; and
- (5) Submit reports of project progress in accordance with existing Hawaii Technology Development Venture requirements.

(e) The Hawaii Technology Development Venture shall submit reports to the corporation no later than twenty days prior to the regular session of 2008, and annually thereafter until all moneys have been expended, on the activities and expenditures of the follow-on funding program.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 for a research and development follow-on funding program for Hawaii-based small businesses that received federal funding through the Hawaii Technology Development Venture or the National Defense Center of Excellence for Research in Ocean Sciences; provided that up to \$500,000 shall be expended for project oversight of program awardees. The funds shall be appropriated as a grant pursuant to chapter 42F, Hawaii Revised Statutes.

The sum appropriated shall be expended by the Hawaii strategic development corporation through a contract with the Pacific International Center for High Technology Research for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

**ACT 268**

S.B. NO. 1614

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 the recruitment and retention of high-quality teachers are fundamental components of a high-quality education system for Hawaii's children. Act 51, Session Laws of Hawaii 2004, notes that other than home and societal factors, teacher quality is the single most influential factor in student achievement. While the State hires over one thousand three hundred new teachers each year, the University of Hawaii graduates only four hundred to four hundred fifty teachers per year.

At Waianae high school, there are approximately one hundred fifty teachers serving the needs of two thousand students, the majority of whom are native Hawaiians and are living at or below the poverty level. Currently, only fifty-six per

cent of teachers at Waianae high school are fully licensed. Additionally, Waianae high school and all but one of its elementary and intermediate feeder schools are being restructured due to failures in student learning.

The urgency of improving teacher quality at Waianae high school has led to the awarding of a multi-year federal native Hawaiian education program grant that provides resources to design a model for Waianae high school. Waianae high school and the Waianae High School Alumni Association are the program grant recipients. The new human resource management model will allow the school to achieve a significantly greater level of fully licensed teachers.

The purpose of this Act is to appropriate funds to a pilot project that implements a new human resource management model for Waianae high school and its elementary and intermediate feeder schools. The funds would complement the federal grant funds and allow for the extension of the recruitment, induction, and mentoring model to elementary, middle, and high school students.

SECTION 2. The Waianae complex schools shall submit to the legislature, no later than twenty days prior to the convening of the regular session of 2008, a written report that includes:

- (1) Baseline data on teacher qualifications at each school in the Waianae complex;
- (2) Information on the development and maintenance of a system for measuring the quantitative and qualitative results of its recruitment and retention efforts;
- (3) Assessment of the value and impact of the new human resource management model to students at the elementary, middle, and high school levels; and
- (4) Any other pertinent information, recommendations, and proposed legislation, if any, to determine the future of the pilot project.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary for fiscal year 2007-2008, and the same sum, or so much thereof as may be necessary for fiscal year 2008-2009, for the implementation of a new human resource management model for the Waianae complex schools, including Waianae high school and its elementary and intermediate feeder schools.

The sums appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 269

H.B. NO. 895

A Bill for an Act Relating to Motor Vehicles.

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

SECTION 1. Significant increases in the number of abandoned and derelict vehicles being discarded on Hawaii's roadways degrade the beauty of our island state and pose a danger to the public by creating unsafe driving conditions on our highways. While towing companies provide a valuable public service for Hawaii's

motorists by removing many of these vehicles in a timely manner, increased costs in operating a towing service, along with increased “scrapping” costs for the disposal of unclaimed or derelict vehicles, have caused tow operators to incur financial hardships. Moreover, the current notification process required by law for the disposition of a motor vehicle that has been towed and determined to be abandoned or derelict is lengthy. In some instances, the process has taken upwards of three months. This increases costs incurred by the towing company for storage of the towed vehicle.

While the county in which the towing company is located is most often the requestor for the towing company to remove these abandoned and derelict motor vehicles, the county only pays for the initial towing service and does not pay for any storage fees incurred with the towed motor vehicle even though the storage of the vehicle may be of considerable cost to the towing company. A possible solution to this growing problem is to use funds from the highway beautification and disposal of abandoned or derelict vehicles revolving fund to defray some of the costs associated with storage of abandoned or derelict vehicles until they can be sold at auction or scrapped.

Removal of these vehicles should be accomplished as rapidly as possible. Providing the county and tow companies with the tools necessary to take custody and properly dispose of abandoned vehicles in a more efficient manner will aid in this task.

Accordingly, the purpose of this Act is to:

- (1) Allow counties to increase registration fees and thereby increase deposits into the highway beautification and disposal of abandoned or derelict vehicles revolving fund to defray costs associated with the storage of abandoned or derelict vehicles;
- (2) Increase towing and storage fees that towing companies are currently allowed to charge; and
- (3) Decrease the number of days in which the owner of the towed motor vehicle must be notified.

SECTION 2. Section 286-51, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) This part shall be administered by the director of finance in conjunction with the requirements of sections 249-1 to 249-13 and shall entail no additional expense or charge to the person registering the ownership of a motor vehicle other than as provided by this section or by other laws; provided that for each new certificate of ownership issued by the director of finance under section 286-52, the director of finance may charge a fee which shall be deposited in the general fund. The fees charged to issue a new certificate of ownership shall be established by the county’s legislative body.

Notwithstanding any other law to the contrary, an additional fee of not more than \$1 for each certificate of registration for a U-drive motor vehicle and \$2 for each certificate of registration for all other motor vehicles may be established by ordinance and collected annually by the director of finance of each county, to be used and administered by each county:

- (1) For the purpose of beautification and other related activities of highways under the ownership, control, and jurisdiction of each county; and
- (2) To defray the additional cost in the disposition and other related activities of abandoned or derelict vehicles as prescribed in chapter 290. For the purposes of this paragraph, other related activities shall include but need not be limited to any and all storage fees that are

negotiated between each county and a towing company contracted by the county to remove and dispose of abandoned or derelict vehicles.

The \$2 fee established pursuant to this subsection for certificates of registration for motor vehicles other than U-drive motor vehicles may be increased by ordinance up to a maximum of [~~\$5~~] \$10; provided that all amounts received from any fee increase over \$2 shall be expended only for the purposes of paragraph (2). The moneys so assessed and collected shall be placed in a revolving fund entitled, "the highway beautification and disposal of abandoned or derelict vehicles revolving fund".

SECTION 3. Section 290-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Towing companies engaged by the owner, occupant, or person in charge of the property shall:

- (1) Charge not more than [~~\$55~~] \$65 for a tow, or [~~\$65~~] \$75 for a tow using a dolly, plus a mileage charge of [~~\$6.50~~] \$7.50 per mile towed and [~~\$20~~] \$25 per day or fraction thereof for storage for the first seven days and [~~\$15~~] \$20 per day thereafter. [~~When the tow occurs between the hours of six o'clock p.m. and six o'clock a.m., from Monday through Thursday and from Friday six o'clock p.m. to Monday six o'clock a.m., the towing company shall be entitled to an overtime charge of \$15.~~] If the vehicle is in the process of being hooked up to the tow truck and the owner appears on the scene before the vehicle has been moved by the tow truck, the towing company shall unhook the vehicle [~~upon payment by the owner of an "unhooking" fee of not more than \$50. If the owner is unwilling or unable to pay the "unhooking" fee, the vehicle may be towed~~]. In the case of a difficult hookup, meaning an above or below ground hookup in a multilevel facility, a towing surcharge of \$30 shall be applicable;
- (2) Determine the name of the legal owner and the registered owner of the vehicle from the department of transportation or the county department of finance. The legal owner and the registered owner shall be notified in writing at the address on record with the department of transportation or with the county department of finance by registered or certified mail of the location of the vehicle, together with a description of the vehicle, within a reasonable period not to exceed [~~twenty~~] fifteen days following the tow. The notice shall state:
  - (A) The maximum towing charges and fees allowed by law;
  - (B) The telephone number of the consumer information service of the department of commerce and consumer affairs; and
  - (C) That if the vehicle is not recovered within thirty days after the mailing of the notice, the vehicle shall be deemed abandoned and will be sold or disposed of as junk.

Where the owners have not been so notified, then the owner may recover the owner's car from the towing company without paying tow or storage fees; provided that the notice need not be sent to a legal or registered owner or any person with an unrecorded interest in the vehicle whose name or address cannot be determined. Absent evidence to the contrary, a notice shall be deemed received by the legal or registered owner five days after the mailing. A person, including but not limited to the owner's or driver's insurer, who has been charged in excess of the charges permitted under this section may sue for damages sustained and, if the judgment is for the plaintiff, the court shall award

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- the plaintiff a sum not to exceed the amount of the damages and reasonable attorney's fees together with the cost of suit;
- (3) Provide, when a vehicle is recovered by the owner before written notice is sent by registered or certified mail, the owner with a receipt stating:
    - (A) The maximum towing charges and fees allowed by law; and
    - (B) The telephone number of the consumer information service of the department of commerce and consumer affairs; and
  - (4) Accommodate payment by the owner for charges under paragraph (1) by cash and by either credit card or automated teller machine located on the premises."

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

SECTION 5. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 270

H.B. NO. 507

A Bill for an Act Relating to Boating.

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

SECTION 1. The legislature finds that article V, section 6 of the Constitution of the State of Hawaii mandates that functions of the state government shall be allocated by law among its principal departments. Under section 200-3, Hawaii Revised Statutes, the operation, administration, and maintenance of the small boat harbors are under the department of land and natural resources. The legislature transferred the small boat harbors from the department of transportation to the department of land and natural resources, and the legislature, not the department of land and natural resources, will determine the disposition of the small boat harbors.

The purpose of this Act is to prohibit, unless expressly provided by law:

- (1) The transfer of the State's small boat harbors to the counties; and
- (2) Any state department from contracting with any county to administer and manage the State's small boat harbors.

SECTION 2. Section 200-2, Hawaii Revised Statutes, is amended to read as follows:

**"§200-2 Board of land and natural resources, powers and duties.** (a) The board shall have the primary responsibility for administering the ocean recreation and coastal areas programs and performing the functions heretofore performed by the department of transportation and the department of public safety in the areas of boating safety, conservation, search and rescue, and security of small boat harbor environs.

(b) The board shall not transfer its jurisdiction, management, or operations of the small boat harbors to any other department or agency or any county in any manner unless expressly provided by law."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 271

H.B. NO. 1630

A Bill for an Act Relating to Technology Workforce Development.

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

SECTION 1. The legislature finds that the project EAST (environmental and spatial technology) initiative started as a pilot program in the Maui district high schools during the summer of 2000, which later moved to Hawaii county and then to a middle school on Kauai. Project EAST holds great potential to assist Hawaii's public schools to develop in Hawaii's youth important critical thinking, problem-solving, and analytical skills necessary for them to succeed in high technology-based jobs. Project EAST integrates cutting-edge technology, such as computer-assisted drafting, geographic information systems, global positioning systems, and computer graphic applications such as soft image, into the educational curriculum. The goal of this initiative is to prepare students for the information technology age by providing a comprehensive project-based and student-centered learning program where students are responsible for their own learning.

Seven project EAST labs have been established in Hawaii—Chiefess Kamakahahei middle school on Kauai; Maui high school, Baldwin high school, King Kekaulike high school, Lahainaluna high school, and Kihei charter school on Maui; and Kea'au high school on Hawaii. Since 2001, Hawaii students have won a number of awards at the National EAST Conference, competing successfully against approximately two hundred schools in six other states.

The purpose of this Act is to appropriate funds for the Hawaii 3Ts school technology laboratories fund to maintain the project EAST program in existing schools and to expand the program to schools statewide.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,100,000 or so much thereof as may be necessary for fiscal year 2007-2008 to be deposited into the Hawaii 3Ts school technology laboratories fund established pursuant to section 302A-1314, Hawaii Revised Statutes.

SECTION 3. There is appropriated out of the Hawaii 3Ts school technology laboratories fund the sum of \$1,100,000 or so much thereof as may be necessary for fiscal year 2007-2008 to maintain the project EAST program in existing schools and to expand the program to schools statewide; provided that no funds shall be expended unless matching funds are provided pursuant to section 302A-1314(p), Hawaii Revised Statutes.

The sum appropriated shall be expended by the Economic Development Alliance of Hawaii, Inc., in accordance with section 302A-1314, Hawaii Revised Statutes, and implemented in partnership with county economic development boards, as appropriate, for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

A Bill for an Act Relating to State Funds.

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

SECTION 1. Chapter 36, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§36- Full disclosure of entities receiving state awards. (a) In this section, unless the context indicates otherwise:

“Entity”:

- (1) Includes, whether for profit or nonprofit:
  - (A) A corporation;
  - (B) An association;
  - (C) A partnership;
  - (D) A limited liability company;
  - (E) A limited liability partnership;
  - (F) A sole proprietorship;
  - (G) Any other legal business entity;
  - (H) Any other grantee or contractor that is not excluded by subparagraph (2) or (3); and
  - (I) Any state or county entity;
- (2) On and after January 1, 2010, includes any subcontractor or subgrantee; and
- (3) Does not include:
  - (A) An individual recipient of state public assistance; or
  - (B) A state employee.

“Searchable website” means a website that allows the public to:

- (1) Search state awards by any identifying element required by subsection (b);
- (2) Ascertain through a single search the total amount of funding awarded to an entity by state award that is a grant, subgrant, loan, awards cooperative agreement, or other form of financial assistance, by fiscal year;
- (3) Ascertain through a single search the total amount of funding awarded to an entity by a state award that is a contract, subcontract, purchase order, task order, or delivery order, by fiscal year; and
- (4) Download data included in paragraph (1) included in the outcome from searches.

“State award” means state financial assistance and expenditures that:

- (1) Are grants, subgrants, loans, awards, cooperative agreements, other forms of financial assistance, contracts, subcontracts, purchase orders, task orders, and delivery orders;
  - (2) Do not include single transactions less than \$25,000; and
  - (3) Before October 1, 2009, do not include credit card transactions.
- (b) Not later than January 1, 2009, the department of budget and finance, in accordance with this section, shall establish, implement, and maintain a single searchable website, accessible by the public at no cost, that includes for each state award:
- (1) The name of the entity receiving the award;
  - (2) The amount of the award;
  - (3) Information on the award, including transaction type, funding agency, the North American Industry Classification System code, program

source, and an award title descriptive of the purpose of each funding action;

- (4) The full address of the entity receiving the award and the primary location of performance under the award;
- (5) A unique identifier of the entity receiving the award and of the parent entity of the recipient, if the entity is owned by another entity; and
- (6) Any other relevant information specified by the department of budget and finance.

The website shall include data for fiscal year 2008 and each fiscal year thereafter.

The director of finance is authorized to designate one or more state agencies to participate in the development, establishment, maintenance, and support of the website. In the initial designation, or in subsequent instructions and guidance, the director may specify the scope of the responsibilities of each agency.

State agencies shall comply with the instructions and guidance issued by the director of finance and shall provide appropriate assistance to the director upon request, so as to assist the director in ensuring the existence and operation of the website.

(c) The website established under this section:

- (1) Shall provide an opportunity for the public to provide input about the utility of the site and recommendations for improvements;
- (2) Shall be updated not later than thirty days after the award of any state award requiring a posting; and
- (3) Shall provide for separate searches for the state awards;

provided that, notwithstanding any provision under this section to the contrary, except for information that is disclosed in the aggregate, information on any state award that is tax related and authorized under title 14 shall be disclosed pursuant to taxpayer disclosure provisions under title 14.

(d) Not later than July 1, 2008, the director of finance shall establish and implement a pilot program to:

- (1) Test the collection and accession of data about subgrants and subcontracts; and
- (2) Determine how to implement a subaward reporting program across the state, including:
  - (A) A reporting system under which the entity issuing a subgrant or subcontract is responsible for fulfilling the subaward reporting requirement; and
  - (B) A mechanism for collecting and incorporating agency and public feedback on the design and utility of the website.

The pilot program shall terminate not later than January 1, 2010.

(e) Based on the pilot program, not later than January 1, 2010, the director of finance:

- (1) Shall ensure that data regarding subawards are disclosed in the same manner as data regarding other state awards; and
- (2) Shall ensure that the method for collecting and distributing data about subawards:
  - (A) Minimizes burdens imposed on state award recipients and subaward recipients;
  - (B) Allows state award recipients and subaward recipients to allocate reasonable costs for the collection and reporting of subaward data as indirect costs; and
  - (C) Establishes cost-effective requirements for collecting subaward data under block grants, formula grants, and other types of assistance to local governments.

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For subaward recipients that receive state funds through county governments, the director of finance may extend the deadline for ensuring that data regarding such subawards are disclosed in the same manner as data regarding other state awards for a period not to exceed eighteen months, if the director determines that compliance would impose an undue burden on the subaward recipient.

(f) Any entity that demonstrates to the director of finance that the gross income, from all sources, for the entity did not exceed \$300,000 in the previous tax year of that entity shall be exempt from the requirement to report subawards under subsection (d), until the director determines that the imposition of such reporting requirements will not cause an undue burden on the entity.

(g) Nothing in this section shall prohibit the department of budget and finance from including through the website established under this section access to data that is publicly available in any other state database.

(h) The director of finance shall submit to the legislature not later than twenty days prior to the convening of each regular session an annual report regarding the website established under this section.

Each report shall include:

- (1) Data regarding the usage and public feedback on the utility of the site (including recommendations for improving data quality and collection);
- (2) An assessment of the reporting burden placed on state award and subaward recipients; and
- (3) An explanation of any extension of the subaward reporting deadline, if applicable.

The director of finance shall make each report publicly available on the website established under this section.

(i) Nothing in this section shall require the disclosure of classified information.”

SECTION 2. 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 2007-2008 for 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 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 273

H.B. NO. 777

A Bill for an Act Relating to the Hawaii Educator Loan Program.

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

SECTION 1. In 2001, the Hawaii educator loan program and special fund were established to recruit college students to become educators and to ensure that these graduates teach in our public schools. The legislature finds that although the

program has proven to be successful, the State is still experiencing a teacher shortage. In particular, hard-to-fill positions, including special education, regular education shortage categories, and teacher positions in rural areas have posed a significant teacher recruitment and retention challenge for our public schools.

The purpose of this Act is to expand the Hawaii educator loan program to recruit and retain qualified teachers to teach in public schools located in rural areas throughout the State.

SECTION 2. Section 304A-701, Hawaii Revised Statutes, is amended to read as follows:

“[E]§304A-701[] Hawaii educator loans; eligibility; amounts[-]; educator loan forgiveness program; repayment; collection. (a) There is created the Hawaii educator loan program to be administered by the University of Hawaii, in partnership with a financial institution whose operations are principally conducted in Hawaii, to provide financial support to students and teachers who complete a state-approved teacher education program and who agree to teach as a full-time teacher for a period of time to be determined by the University prior to the award of a loan, in [the]:

- (1) The Hawaii public school system[-] in a hard-to-fill position including special education, regular education shortage categories, or Title 1 schools, and in one of the following capacities:
  - (A) As an elementary school teacher teaching in the field of elementary education who has met standards as set forth by the Hawaii teacher standards board; or
  - (B) As a secondary school teacher teaching in the subject area that is relevant to the loan recipient’s academic major as certified by the department of education who has met standards as set forth by the Hawaii teacher standards board; or
- (2) At a school located in a rural area in the State, as determined by the superintendent of education.

Eligibility shall be [awarded] determined by the university [to students] on a competitive basis. The amount to be loaned to a student shall be determined by the board of regents based on need for financial aid and proof of acceptance into a state-approved teacher education program at the [university-] University. The maximum amount of loans that a student may receive under this program shall be an aggregate amount equivalent to tuition payments and costs of textbooks and other instructional materials necessary to complete a state-approved teacher education program.

(b) All loans made under this subpart shall bear interest at five per cent simple interest. Repayment of principal and interest charges shall commence one year after graduation or three months after a loan recipient ceases to be enrolled in a state-approved teacher education program and shall be paid in periodic installments within a seven-year period. The University may charge late fees and all other reasonable costs for the collection of delinquent loans.

(c) The University shall adopt rules to implement the educator loan program. The rules shall be adopted pursuant to chapter 91, but shall be exempt from the public notice and public hearing requirements.

(d) Liability for repayment of a loan shall be canceled upon the death or permanent total disability of the borrower.

(e) Upon a showing of proof that the loan recipient has completed a state-approved teacher education program and for each year that the loan award recipient teaches in the Hawaii public school system pursuant to subsection (a)(1) or (2), loan forgiveness shall be provided to the recipient as follows:

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- (1) Ten per cent of the total amount of the loan award and interest shall be waived every year for the first five years of repayment; and
- (2) Twenty-five per cent of the total amount of the loan award and interest shall be waived every year for the sixth and seventh years of repayment.

(f) If a loan recipient who is a graduate of a state-approved teacher education program subject to this section and teaching pursuant to subsection (a) fails to teach in the Hawaii public school system for the minimum number of years, as determined by the University prior to the loan, from the recipient's original date of employment with the department of education, excluding temporary leaves of absence, then the recipient shall repay any remaining loan balance at the rate of ten per cent simple interest.

(g) In accordance with chapter 103D, the University may enter into written contracts with collection agencies for the purpose of collecting delinquent loans. All payments collected, exclusive of a collection agency's commissions, shall revert, and be credited, to the Hawaii educator loan program special fund. A collection agency that enters into a written contract with the University for the collection of delinquent loans pursuant to this section may collect a commission from the debtor in accordance with the terms of, and up to the amounts authorized in, the written contract."

SECTION 3. Section 304A-702, Hawaii Revised Statutes, is repealed.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 for fiscal year 2007-2008 to be deposited into the Hawaii educator loan program special fund to be used for student loans.

SECTION 5. There is appropriated out of the Hawaii educator loan program special fund the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2007-2008 to be used for student loans.

The sum appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 274

S.B. NO. 686

A Bill for an Act Relating to Educational Assistants.

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

SECTION 1. A career ladder program is a salary structure developed for educational assistants who meet the specific job requirements based on specific training, job performance, and years of experience as an educational assistant. The career ladder program recognizes training as a means to advance in salary. The goal

of the career ladder program is to attract, retain, and reward high-quality educational assistants by:

- (1) Providing opportunities for professional growth;
- (2) Enhancing education to improve student achievement; and
- (3) Providing incentives, a salary supplement, and a career advancement program.

With the reauthorization of the Individuals with Disabilities Education Act, and the requirements set forth in the No Child Left Behind Act, the department of education is responsible for the development of staff training programs and opportunities to meet these demands.

The purpose of this Act is to require the department of education to submit a report on educational assistants and the class levels to be established including a career ladder program and other career ladder enhancements, the number of affected employees, and the cost of implementing repricing of current class levels and a career ladder program.

**SECTION 2.** The department of education shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2008 on a career ladder program for educational assistants that includes:

- (1) Repricing class levels and a career ladder program, and other career ladder enhancements;
- (2) The number of employees affected by repricing and a career ladder program; and
- (3) The cost of implementing repricing and a career ladder program for educational assistants.

**SECTION 3.** This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 275

H.B. NO. 598

A Bill for an Act Relating to Education.

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

**SECTION 1.** Today's students are living in an increasingly technology-driven world. Statistics indicate that ninety per cent of children and adolescents from ages five to seventeen use computers. About fifty-nine per cent of them use the Internet.

To continue captivating the minds of our youth, public education must adapt and function within the context of their changing world by applying technology.

Access to knowledge and information has expanded exponentially due to the Internet. Such powerful technology should be taken advantage of to enhance the learning experiences of students.

Online learning opens up many opportunities for students, and more and more educators and policymakers across the nation are recognizing the benefits of education unconstrained by time and place. As of September 2006, thirty-eight states either had policies in place for online education, offered a state-led online learning program, or both.

The purpose of this Act is to create an online learning task force to develop a systematic plan to expand opportunities for online learning and project a phasing-in

plan for costs and desirable outcomes to enhance the learning experiences of students across the state.

SECTION 2. (a) There is established an online learning task force to be attached to the department of education for administrative purposes. The task force shall develop a systematic plan to expand opportunities for online learning to enhance the learning experiences of students across the state.

The plan shall:

- (1) Address the following objectives:
  - (A) Providing choices for learners in how they learn and how they present evidence of what they have learned;
  - (B) Providing individuals access to learning opportunities on a twenty-four-hour-per-day, seven-days-per-week basis; and
  - (C) Enriching and enhancing twenty-first century skills for all learners;
- (2) Include methods for achieving the following desired outcomes:
  - (A) Increasing on-time or earlier graduation rates;
  - (B) Increasing student achievement as measured by the Hawaii state assessment;
  - (C) Decreasing student retention;
  - (D) Decreasing student misconduct referrals; and
  - (E) Increasing the number of highly qualified teachers, administrators, and paraprofessionals;
- (3) Include cost projections and a plan for phasing-in costs; and
- (4) Include proposals for regulatory policies appropriate to online learning programs.

(b) The members of the online learning task force shall include but not be limited to:

- (1) The assistant superintendent of the department of education office of curriculum, instruction, and student support or the assistant superintendent's designee;
- (2) The assistant superintendent of the department of education office of information and technology services or the assistant superintendent's designee;
- (3) The vice chancellor for students of the University of Hawaii at Manoa;
- (4) A representative from the Hawaii Educational Networking Consortium; and
- (5) A representative from the Myron B. Thompson Academy.

(c) Members of the online learning task force shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(d) The online learning task force shall be exempt from chapter 92, Hawaii Revised Statutes; provided that the task force shall make a good faith effort to make its proceedings and work products accessible and available to the general public in a manner consistent with the intent of chapter 92, Hawaii Revised Statutes.

(e) The online learning task force shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2008.

(f) The online learning task force shall terminate on June 30, 2008.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 to support the operations of the online learning task force.

The sum appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 276

H.B. NO. 15

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 under the Felix stipend program and through a memorandum of agreement, special tuition waivers from the department of education are made available to qualified candidates who enroll in special education teacher preparation programs at the undergraduate, post-baccalaureate, and graduate levels. In exchange for these tuition waivers, teacher candidates agree to work for the department of education in the field of special education for a period of three to five years.

However, since the program's inception in 1998, there have been instances of students who have not met their contractual obligations under the Felix stipend program and have, therefore, breached their contractual agreements with the department of education.

The purpose of this Act is to create a special fund into which shall be deposited moneys received as repayment from students who have breached their contractual agreements under the Felix stipend program. The special fund will in turn be used to provide tuition assistance to students for the Felix consent decree recruitment and retention program, or any successor programs, and related costs.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§302A- Felix stipend program special fund.** (a) There is established the Felix stipend program special fund, into which shall be deposited all moneys received as repayment from students due to a breach in contractual agreements under the Felix stipend program, which offers tuition waivers for qualified candidates who enroll at the University of Hawaii in special education teacher programs at the undergraduate, post-baccalaureate, and graduate levels in exchange for their agreement to work for the department for a period of three to five years immediately following completion of their teacher preparation program.

(b) The special fund shall be administered and used by the department to provide ongoing funding for the provision of tuition assistance to students for the Felix consent decree recruitment and retention program, or any successor programs, and related costs.”

SECTION 3. There is appropriated out of the Felix stipend program special fund the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2007-2008 to provide tuition assistance to students for the Felix consent decree recruitment and retention program, or any successor programs, and related costs.

The sum appropriated shall be expended by the department of education for the purposes of this Act.

## ACT 277

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 277

H.B. NO. 1477

A Bill for an Act Relating to Rural Primary Health Care Training.

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

SECTION 1. The legislature finds that there is a severe shortage of primary care health providers in the state, which threatens the health of our residents and affects health care costs. This shortage has pushed the federal government to designate a number of areas in the State, particularly rural areas, as medically underserved areas, health professional shortage areas, or as having medically underserved populations.

The legislature further finds that family physicians are well-suited to rural health care due to the broad scope of their practice, which encompasses inpatient, outpatient, and nursing home settings, and addresses acute, chronic, and preventive health across the life cycle. Many family physicians also provide maternity care, family planning, and mental health services through their practices.

The University of Hawaii John A. Burns school of medicine currently offers a three-year residency program in family medicine. The program emphasizes a system-based and interdisciplinary team approach to health care. The mission of the family medicine residency program is to meet the needs of rural and medically underserved areas and populations in Hawaii in a culturally sensitive and medically appropriate manner. Family medicine program residents provide not only health care but also education and outreach at schools and community events. Presently, family medicine program residents spend two months in a federally-funded rural health care training demonstration project, initiated in Hilo in 2006, in which residents learn how to provide health care to medically underserved patients in rural areas as they rotate among private physician offices, emergency departments, and the community, providing outreach and education. It is anticipated that the Hilo rural health training program will be duplicated on Kauai. Additional training sites will be developed in conjunction with the health master planning process underway in Maui and with the hospital and community health center system on Kauai. As these sites are being developed, the curriculum can be structured so that family medicine residents have the opportunity to rotate to neighbor island sites other than Hilo.

The purpose of this Act is to increase access to primary health care services provided by family physicians or residents in the family medicine residency program at the University of Hawaii to medically underserved residents in rural areas of the state by appropriating funds to:

- (1) Support and expand the family medicine residency program of the University of Hawaii John A. Burns school of medicine's department of family medicine and community health to provide rural primary health care services; and
- (2) Develop a permanent statewide rural primary health care training program in the county of Hawaii to expand the rural health care training

available for individuals in the family medicine residency program of the University of Hawaii John A. Burns school of medicine.

SECTION 2. 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 2007-2008 to support and expand the family medicine residency program of the University of Hawaii John A. Burns school of medicine's department of family medicine and community health to provide rural primary health care services.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,500,000 or so much thereof as may be necessary for fiscal year 2008-2009 to develop a statewide rural primary health care training program to provide family physicians to rural areas and improve health care access for the people of Hawaii.

SECTION 4. The sums appropriated in sections 2 and 3 of this Act shall be expended by the University of Hawaii John A. Burns school of medicine for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 278

S.B. NO. 1676

A Bill for an Act Relating to the Hawaii Health Systems Corporation.

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

SECTION 1. The legislature finds that the cost of medical malpractice and hospital professional and general liability coverage continues to rise and that stability in risk financing is needed for the Hawaii health systems corporation and the physicians serving this entity. The escalating costs of premiums, lack of insurers providing coverage in Hawaii, decreased limits of available coverage, and coverage restrictions, make it important to establish a captive insurance company to insure and control exposure to the liability risks of the corporation.

The purpose of this Act is to:

- (1) Provide that if the Hawaii health systems corporation establishes a domestic captive insurance company to provide medical malpractice and hospital professional and general liability coverage for the corporation and its facilities and the physicians serving therein, it must submit a feasibility report to the legislature, a formalized financial plan to the director of finance for approval, and a business plan to the insurance commissioner; and
- (2) Ensure that the composition of the captive insurance board includes members with the appropriate knowledge and experience to oversee the establishment and operation of a captive insurance company.

SECTION 2. Chapter 323F, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§323F- Captive insurance board. (a) There is established a ten-member captive insurance board that shall carry out the corporation’s duties and responsibilities relating to the establishment of any captive insurance company pursuant to section 323F-7(a)(20) and the operation thereof.

(b) Eight members of the captive insurance board shall be appointed by the governor as follows:

- (1) Three members from a list of five persons submitted by the president of the senate; provided that at least one of these members shall have experience in the insurance industry and financial matters;
- (2) Three members from a list of five persons submitted by the speaker of the house of representatives; provided that at least one of these members shall have experience in the insurance industry and financial matters; and
- (3) Two members, one of whom shall be the chief executive officer or chief financial officer of an insurer licensed to do business in the State and shall serve as a nonvoting member.

The director of health or the director’s designee and the insurance commissioner or the commissioner’s designee shall serve as ex officio, nonvoting members.

Any vacancy shall be filled in the same manner provided for the original appointments. The captive insurance board shall elect its own chair from among its members.

(c) The selection, appointment, and confirmation of any appointed nominee shall be based on ensuring that captive insurance board members have diverse and beneficial perspectives and experiences and that they include, to the extent possible, representatives of the insurance and/or finance sectors. Members of the captive insurance board shall serve without compensation but may be reimbursed for actual expenses, including travel expenses incurred in the performance of their duties.

(d) Any appointed member of the captive insurance board may be removed for cause by the governor or for cause by vote of a two-thirds majority of the captive insurance board members then in office. For purposes of this section, cause shall include without limitation:

- (1) Malfeasance in office;
- (2) Failure to attend regularly called meetings;
- (3) Sentencing for conviction of a felony, to the extent allowed by section 831-2; or
- (4) Any other cause that may render a member incapable or unfit to discharge the duties required under this chapter.

Filing nomination papers for elective office, appointment to elective office, or conviction of a felony consistent with section 831-3.1, shall automatically and immediately disqualify a board member from office.

(e) No member of the captive insurance board shall be an employee or vendor of the corporation, or an immediate family member thereof. For purposes of this subsection, “immediate family member” means a corporation board employee’s or vendor’s spouse, child, parent, grandparent, or any related individual who resides in the same household of the employee or vendor.”

SECTION 3. Section 323F-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The corporation shall be governed by a thirteen-member board of directors which shall carry out the duties and responsibilities of the corporation other than those duties and responsibilities relating to the establishment of any captive insurance company pursuant to section 323F-7(a)(20) and the operation thereof.”

SECTION 4. No later than twenty days prior to the convening of the regular session of 2008, the board of directors of the Hawaii health systems corporation shall submit to the legislature a report on the feasibility of establishing a captive insurance company pursuant to section 323F-7(a)(20), Hawaii Revised Statutes, to provide medical malpractice and hospital professional and general liability coverage for Hawaii health systems corporation facilities and physicians.

SECTION 5. In organizing a captive insurance company pursuant to section 323F-7(a)(20), Hawaii Revised Statutes, to provide medical malpractice and hospital professional and general liability coverage for Hawaii health systems facilities and physicians, the Hawaii health systems corporation shall:

- (1) Submit a formalized financial plan to the director of finance for review and approval; and
- (2) Upon receiving the approval required by paragraph (1), in addition to the documents required to be submitted by article 19, chapter 431, Hawaii Revised Statutes, submit to the insurance commissioner a formalized business plan that includes the establishment of a captive insurer board of directors.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$6,739,000 or so much thereof as may be necessary for fiscal year 2007-2008 to be deposited into the health systems special fund.

SECTION 7. There is appropriated out of the health system special fund the sum of \$13,279,000 or so much thereof as may be necessary for fiscal year 2007-2008 to establish a captive insurance company as authorized by this Act.

The sums appropriated shall be expended by the Hawaii health systems corporation for the purposes of this Act.

SECTION 8. New statutory material is underscored.<sup>2</sup>

SECTION 9. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

#### Notes

1. Period should not be underscored.
2. Edited pursuant to HRS §23G-16.5.

## ACT 279

H.B. NO. 1866

A Bill for an Act Relating to Mixed Martial Arts.

*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 MIXED MARTIAL ARTS CONTESTS

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

“Amateur mixed martial arts contest” means a mixed martial arts contest in which no money, prize, purse, or other form of compensation is offered or given to contestants.

“Department” means the department of commerce and consumer affairs.

“Director” means the director of commerce and consumer affairs.

“Manager” means any person who:

- (1) Undertakes or has undertaken to represent in any way the interests of any mixed martial arts contestant in procuring, arranging, or conducting any contest in which the mixed martial arts contestant is to participate; provided that “manager” shall not include an attorney licensed to practice in this state in the attorney’s legal representation of a mixed martial arts contestant; or
- (2) Directs or controls the mixed martial arts activities of the mixed martial arts contestant.

“Mixed martial arts” means unarmed combat involving the use, subject to any applicable limits set forth in this chapter and any rules adopted to implement these limits, of a combination of techniques from different disciplines of martial arts, including grappling, kicking, and striking.

“Mixed martial arts contest” or “contest” means a contest or exhibition in a mixed martial arts event in which a mixed martial arts contestant competes with another mixed martial arts contestant, using mixed martial arts, and in which any contestant in the mixed martial arts event receives any money, prize, purse, or other forms of compensation; provided that the term does not include an amateur mixed martial arts contest.

“Mixed martial arts contestant” or “contestant” means a person who is trained in mixed martial arts and competes in a mixed martial arts contest.

“Mixed martial arts event” or “event” means one or more mixed martial arts contests held at the same location on the same date.

“No rules combat, extreme fighting, or similar contest” means a contest or exhibition performed in this state in which the contestants are permitted to use, with few or no rules or restrictions, a combination of combative contact techniques, including punches, kicks, chokes, joint locks, and other maneuvers, with or without the use of weapons, that place contestants at an unreasonably high risk of bodily injury or death whether or not for any money, prize, reward, purse, or other compensation, or promise thereof; provided that the term does not include a contest involving the exclusive use of boxing, wrestling, kickboxing, martial arts, or mixed martial arts.

“Promoter” means an individual, corporation, joint venture, partnership, limited liability corporation, limited liability partnership, or any other type of business entity that promotes, conducts, holds, or gives a mixed martial arts contest.

§ -2 **Assistants.** The director may appoint and remove assistants to assist the director in carrying out the director’s activities, duties, and other obligations under this chapter.

§ -3 **Authority to subpoena witnesses and administer oaths and penalties.** The director may issue subpoenas for the attendance of witnesses, with the same effect as if the subpoenas were issued in an action in the circuit court, and may administer oaths in all matters connected with the administration of this chapter. Disobedience of a subpoena and false swearing before the director shall be attended by the same consequences and be subject to the same penalties as if disobedience or false swearing occurred in an action in the circuit court.

**§ -4 Powers and duties of the director.** (a) In addition to any other powers and duties authorized by law, the director shall have the following powers and duties:

- (1) To adopt, amend, or repeal rules and forms necessary to effectuate this chapter. All rules shall be adopted pursuant to chapter 91 and shall have the force and effect of law. The rules may include, but not be limited to the following:
    - (A) An appropriate method of ensuring that all financial obligations are met by a promoter who conducts, holds, or gives a mixed martial arts contest;
    - (B) A public record accounting for the distribution of all tickets provided to the director by a promoter and anything else of value that is provided to the director;
    - (C) Clinics or seminars on health and safety for licensees deemed necessary by the director;
    - (D) Criteria for a mandatory neurological and eye examination of any mixed martial arts contestant;
    - (E) Criteria for and duration of an automatic medical suspension from mixed martial arts contests;
    - (F) Procedures to evaluate the professional records and physician's certification of each mixed martial arts contestant participating in a mixed martial arts contest in the state and to deny authorization to a mixed martial arts contestant to fight when the requirements of this chapter are not met;
    - (G) Procedures to ensure that no mixed martial arts contestant is permitted to compete while under suspension from any entity that regulates mixed martial arts due to:
      - (i) A recent knockout or series of consecutive losses;
      - (ii) An injury, any required medical procedure, or a physician's denial of certification to compete;
      - (iii) Failure of any drug test; or
      - (iv) The use of false aliases or falsifying or attempting to falsify official identification cards or documents relating to mixed martial arts contests;
    - (H) Procedures to review a suspension if appealed by a mixed martial arts contestant, including an opportunity for the contestant to present contradictory evidence;
    - (I) Procedures to revoke a suspension if a mixed martial arts contestant furnishes proof of sufficiently improved medical or physical condition or furnishes proof that the suspension was not, or is no longer, warranted by the facts; and
    - (J) Procedures to require updated medical and criminal background checks prior to a contest and at license renewal;
  - (2) To enforce this chapter and the rules adopted pursuant thereto;
  - (3) To discipline a person or entity who violates this chapter or the rules adopted pursuant thereto; and
  - (4) To appoint an advisory committee to assist with the implementation of this chapter and the rules adopted pursuant thereto.
- (b) The director may either establish a mixed martial arts registry or data bank on mixed martial arts contestants or use an established registry or data bank that is approved by the director, and issue license cards to mixed martial arts contestants.

**§ -5 Jurisdiction of director.** (a) The director is vested with the sole jurisdiction, direction, management, and control over all mixed martial arts contests to be conducted, held, or given within the state; provided that this excludes amateur mixed martial arts contests. No mixed martial arts contest shall be conducted, held, or given within the state except in accordance with this chapter and the rules adopted by the director pursuant thereto.

(b) No mixed martial arts event shall take place unless the director has granted a permit for the proposed event. In addition, the director shall not allow any mixed martial arts contest unless:

- (1) The contest consists of not more than five rounds of a duration of not more than five minutes each with an interval of at least one minute between each round and the succeeding round;
- (2) Each contestant is at least eighteen years of age, is not disqualified from competing in a similar mixed martial arts contest in another jurisdiction at the time of the contest, and does not use stimulants or banned substances before or during the contest;
- (3) Each mixed martial arts contestant is examined one hour prior to the contest by at least one physician licensed under chapter 453 or 460 who shall certify in writing to the referee of the contest that the contestant is physically fit to engage therein;
- (4) Each contestant furnishes to the director:
  - (A) A medical report of a medical examination completed not less than six months before the contest, at the sole expense of the promoter, including the results of HIV and hepatitis testing; and
  - (B) Previous fight records that establish the contestant's fitness to compete in the contest;
- (5) The contest is under the control of a licensed referee in the ring who has at least one year of experience in refereeing a match or exhibition involving mixed martial arts and who has passed a physical examination by a physician licensed under chapter 453 or 460, including an eye examination, within two years prior to the contest;
- (6) The promoter has complied with sections -6 and -7; and
- (7) All licensees have complied with the requirements of this chapter and rules adopted in accordance with chapter 91, including any rules or requirements that protect the safety of the contestants to the extent feasible.

**§ -6 Licenses; promoters.** (a) A promoter may apply to the director for a license that shall be required to promote, conduct, hold, or give mixed martial arts contests. The application shall be in writing, on a form prescribed by the director, and signed by the applicant, and shall include the following:

- (1) Evidence of financial integrity in accordance with rules adopted by the director pursuant to chapter 91; and
- (2) Proof that the applicant has currently satisfied all of the applicable requirements of the department's business registration division.

(b) The application shall contain a recital of the facts as may be specified by the director for the director to determine whether or not the applicant possesses the necessary physical, mental, moral, and financial qualifications to entitle the applicant to a license.

(c) The director shall not issue any license to conduct, hold, or give mixed martial arts contests unless the director is satisfied that the applicant has complied with the conditions of this chapter, possesses the necessary qualifications for a license, and is the real party in interest, and intends to conduct, hold, or give the mixed martial arts contest itself. The director shall not issue a promoter's license to

an applicant if the applicant or any of the applicant's officers, directors, partners, members, or associates has been convicted of any crime related to gambling or a crime that is directly related to the person's performance in the sport of mixed martial arts.

(d) A license may be revoked at any time if the director finds after a hearing that:

- (1) The licensee is not the real party in interest or has not complied with this chapter or the rules of the director; or
- (2) The licensee or any of the licensee's officers, directors, partners, members, or associates have been convicted of any crime related to gambling or a crime that is directly related to the person's performance in the sport of mixed martial arts.

(e) Every license shall be subject to this chapter and the rules of the director.

(f) The application for a license to promote mixed martial arts contests shall be accompanied by a fee as provided in rules adopted by the director pursuant to chapter 91.

**§ -7 Permit required to hold each mixed martial arts event.** (a) No mixed martial arts event shall be held unless the director issues a permit for the event. To obtain a permit to conduct, hold, or give a mixed martial arts event, a promoter shall:

- (1) Provide proof of medical insurance for mixed martial arts contestants in accordance with rules adopted by the director. All promoters shall be responsible for paying the medical insurance policy premiums and any deductible or copay amount of the medical insurance policy;
- (2) Submit all contracts with managers, mixed martial arts contestants, and venues, including any agreement of pre-contest training funds advanced to any contestant either by the promoter or manager or any party of interest, to the director for the director's review and approval;
- (3) Submit to the director, for the director's review and approval, all ring records of all mixed martial arts contestants scheduled to participate in the event;
- (4) Provide cashier's or certified checks made payable to each mixed martial arts contestant for the amount due the contestant or the contestant's manager, as the case may be, in accordance with the contracts approved by the director;
- (5) Provide to the director written confirmation that an ambulance with paramedics and appropriate security have been obtained and will be present at all times at the venue of the mixed martial arts event;
- (6) Provide evidence to the director that security personnel and resources will be present in sufficient number and force to exercise crowd control and to protect spectators at the mixed martial arts event;
- (7) Provide to the director evidence that the mixed martial arts event will be conducted in compliance with municipal fire codes; and
- (8) Maintain sanitary conditions at the site of the mixed martial arts event.

(b) Failure, refusal, or neglect of any licensed promoter to comply with this section shall result in the automatic denial of a permit to hold the mixed martial arts event.

(c) Licensed promoters may engage in promotions with other licensed promoters as long as each promoter holds a valid, unexpired license and has received the written approval of the director prior to the promotion.

(d) In addition to the payment of other fees and moneys due under this chapter, a licensed promoter shall pay:

- (1) A license fee of three per cent of the first \$50,000 of the total gross receipts from admission fees to an event, exclusive of federal, state, and local taxes;
- (2) A license fee of two per cent of the total gross receipts over \$50,000 from admission fees to an event, exclusive of federal, state, and local taxes;
- (3) Two per cent of the gross sales price for the sale, lease, or other exploitation of broadcasting, television, Internet, and motion picture rights for an event, without any deductions for commission, brokerage fee, distribution fees, advertising, contestants' purses, or any other expenses or charges, including federal, state, or local taxes; and
- (4) Two per cent of the gross receipts from subscription or admission fees, exclusive of federal, state, and local taxes, charged for viewing within the state of a simultaneous telecast of an event;

provided that payments under this subsection shall be deposited into a separate account in the compliance resolution fund and shall be used to cover the costs of administering this chapter.

(e) Within seven calendar days following a mixed martial arts contest, the promoter shall provide the director with an unedited video record of the contest in a format prescribed by the director.

(f) No mixed martial arts event shall be commenced without a permit from the director pursuant to this section.

**§ -8 Licenses, participants.** (a) Any person may apply to the director for a license to act as a physician, referee, judge, manager, second, or mixed martial arts contestant to participate, either directly or indirectly, in any mixed martial arts contest. The application shall be in writing, on a form prescribed by the director, and signed by the applicant. The application shall contain a recital of facts as specified by the director for the director to determine whether or not the applicant possesses the necessary licensure and physical, mental, and moral qualifications to entitle the applicant to a license. The director shall adopt rules for licensure in accordance with chapter 91.

(b) In addition, the applicant for a referee, judge, manager, or second license shall take and pass an examination or evaluation as provided by the director. The director may exempt an applicant for a manager, referee, judge, or second license from taking the examination or evaluation, if the applicant holds a valid manager, referee, judge, or second license in another jurisdiction with comparable mixed martial arts regulations.

(c) Any license to act as a physician, referee, judge, manager, second, or mixed martial arts contestant may be suspended or revoked, or the person otherwise disciplined by the director after a contested case hearing held in accordance with chapter 91.

(d) No license shall be granted to a promoter unless the promoter has submitted a criminal abstract on the promoter to the director.

**§ -9 License fees.** License fees shall be paid biennially to the State by every applicant to whom a license is issued to participate in the conduct of mixed martial arts in any of the following capacities set forth in this chapter: promoter, physician, referee, judge, manager, second, and mixed martial arts contestant. The charge for a duplicate license and all fees required by this chapter shall be as provided in rules adopted by the director pursuant to chapter 91 and shall be deposited with the director to the credit of the compliance resolution fund.

§ **-10 Licenses, limitations, renewals.** (a) No mixed martial arts contest shall be conducted, held, or given unless all the parties participating, as designated in this chapter, are licensed by the director, and it shall be unlawful for any individual or promoter to participate in a contest in any capacity designated in this chapter unless the person is licensed to do so.

(b) The director may limit the number of licenses issued for any purpose as specified in this chapter and may limit the number of mixed martial arts contests conducted, held, or given in any county.

(c) All licenses shall be for a period of not more than two years and all licenses shall expire on June 30 of each odd-numbered year.

(d) The director, at the director's discretion and upon application and payment of fees by the licensee, may renew a license for the following biennium. Failure to timely apply for renewal of any license shall result in the automatic forfeiture of the license. Any applicant whose license has been forfeited shall file an application for a new license and meet all current requirements, including successful passage of the examination, as the case may be, for the license.

(e) Every individual or promoter licensed under this chapter shall be subject to the rules adopted by the director.

§ **-11 Receipts and reports from promoters.** (a) Within three business days after the conclusion of every contest for which admission fees are charged and received, every promoter holding a license to conduct, hold, or give mixed martial arts contests, shall furnish to the director a written report, duly verified, showing the number of tickets sold for the contest, the amount of the gross receipts or proceeds thereof, and other matters as the director prescribes in rules adopted in accordance with chapter 91.

(b) For purposes of this chapter, "gross receipts" includes income received from the sale of print, internet, broadcasting, television, and motion picture rights.

§ **-12 Failure to report receipts.** Whenever any promoter holding a license to conduct, hold, or give mixed martial arts contests fails to timely submit a report of any contest or comply with the requirements of this chapter, or whenever the report is unsatisfactory to the director, the director at the licensee's expense, may examine or cause to be examined, the books and records of the promoter.

§ **-13 Admission tickets.** All tickets of admission to any mixed martial arts contest for which admission fees are charged and received shall have printed clearly upon the face thereof the purchase price of same, and no ticket shall be sold for more than the price as printed thereon.

§ **-14 Inspectors; duties.** The director shall appoint inspectors, each of whom shall receive from the director a card or badge authorizing the person to act as inspector whenever the director may designate the person to so act.

§ **-15 Judges; duties.** The director, in the director's discretion may appoint two licensed judges to act with the referee in rendering a decision, or three licensed judges to act with a nonvoting referee in rendering a decision.

§ **-16 Physician; duties.** Every promoter holding a license to conduct, hold, or give mixed martial arts contests shall have in attendance at every contest at least two physicians licensed to practice medicine in the state under chapter 453 or 460, who shall observe the physical condition of the mixed martial arts contestants and advise the referee with regard thereto and, one hour before each contestant enters the ring, certify in writing as to the physical condition of the contestant to

engage in the contest. A report of the medical examination shall be filed with the director not later than forty-eight hours after the conclusion of the contest. If a contestant is knocked down or severely injured during a contest, or for any other reasons as provided in rules adopted by the director pursuant to chapter 91, at least one physician shall immediately examine the contestant and file a written medical opinion with the director within forty-eight hours of the contest.

§ **-17 Referees; duties.** (a) At each mixed martial arts contest there shall be in attendance a duly licensed referee designated by the director, who shall direct and control the contest. The referee shall render a decision for each contest, except as otherwise provided under this section.

(b) The referee may recommend and the director, in the director's discretion, may terminate the mixed martial arts contest or order the forfeiture of any prize, purse, or remuneration, or any part thereof, to which one or both of the mixed martial arts contestants may be entitled, or any part of the gate receipts for which the contestants are competing, if in the director's judgment one or both of the contestants are not honestly competing.

(c) Each referee shall warn contestants of the referee's power to terminate the contest or to recommend the forfeiture of any purse or purses, should there be any violation of contest rules.

(d) In any case where the referee decides that the contestants are not honestly competing and that under the law the contest should be terminated or that the prize, purse, or remuneration of one or both of the contestants should be forfeited, the contest shall be stopped before the end of the last round, and no decision shall be given. A contestant earns nothing and shall not be paid for a contest in which there is stalling, faking, dishonesty, or collusion. The director, independently of the referee or the referee's decision, may determine the merits of any contest and take whatever action the director considers proper. In any case, the director may order the purse of the contestant violating any rules or statutes held up for investigation and action.

(e) The referee shall stop the contest when, in the referee's judgment, either of the contestants shows a marked superiority or is apparently outclassed.

§ **-18 Drug test; withholding of wages; penalty.** (a) On the advice of one or both of the physicians in attendance at every contest, a post-contest drug test may be administered to any contestant, at the sole expense of the promoter, to determine whether the contestant has consumed any illegal drugs or drugs banned by the director.

(b) Any money, prize, purse, or other form of compensation due to a contestant shall be withheld by the director until the director, in consultation with the two attending physicians, is satisfied that the contestant did not have the presence of any illegal or banned drugs in the contestant's system.

(c) Any contestant who fails a drug test shall have the contestant's license suspended by the director for not less than twelve months from the date of the offense and, in the discretion of the director, may have the contestant's license permanently revoked.

§ **-19 Sham mixed martial arts contest; forfeiture of license.** Any promoter who conducts, holds, gives, or participates in any sham or fake mixed martial arts contest, knowing the same to be a sham or fake, shall forfeit the license issued in accordance with this chapter, and the license shall be automatically terminated by the director. The promoter and any officers, partners, or members of the promoter shall not thereafter be entitled to receive and shall not be given another license.

§ **-20 Sham mixed martial arts contest; penalty against contestant.** The license of any mixed martial arts contestant who knowingly participates in any

sham or false mixed martial arts contest shall be automatically suspended and the mixed martial arts contestant shall be suspended from further participation in any contest held or given under this chapter for not less than twelve months from the date of the offense and may be permanently disqualified from further participation in any contest held or given under this chapter.

**§ -21 Financial interest in mixed martial arts contestant prohibited.**

(a) The director shall not receive any compensation from any person who sanctions, arranges, promotes, conducts, holds, or gives mixed martial arts contests; nor shall the director have, either directly or indirectly, any financial interest in any contestant competing in any mixed martial arts contest.

(b) For the purposes of this section, "compensation" shall not include funds held in escrow for payment to another person in connection with a mixed martial arts contest. The prohibition set forth in this section shall not apply to any contract entered into, or any reasonable compensation received, by the director to supervise a mixed martial arts contest in this state or another state.

**§ -22 Wages of contestant; prepayment prohibited.** All moneys paid to a mixed martial arts contestant for services, as money prize, reward, compensation, or otherwise, shall be considered wages. No contestant shall be paid for services before a mixed martial arts contest; provided that with the approval of the director, a promoter may advance sums of money for training purposes.

**§ -23 No rules combat, extreme fighting, or similar contest; prohibited.** No person shall promote, conduct, hold, give, or participate in any no rules combat, extreme fighting, or similar contests. The director shall enforce the prohibition on no rules combat, extreme fighting, or similar contests, and may adopt rules, pursuant to chapter 91, to enforce the prohibition. In addition to any applicable judicial remedy, a person who violates this section shall be subject to the penalties, fines, and other disciplinary provisions of this chapter.

**§ -24 Disposition of receipts.** Except as otherwise provided for in this chapter, all fees and other moneys received by the director shall be deposited into the compliance resolution fund.

**§ -25 Summary disciplinary action.** In addition to other disciplinary actions provided in this chapter, the director may fine, withhold purse money or fees, and issue immediate temporary suspensions of not more than sixty calendar days against a licensee for violations of this chapter or rules adopted pursuant thereto. The director shall notify the licensee in writing of any temporary suspension, fine, or withholding of purse money within five calendar days of the director's action. The licensee shall have a right to a hearing in accordance with chapter 91; provided that the licensee notifies the director in writing of the request for a hearing within thirty calendar days after the director notifies the licensee in writing, by mail or personal service, of the director's order.

**§ -26 Chapter does not apply to active duty armed forces, national guard, armed forces reserve, or Police Activities League.** This chapter shall not apply to any mixed martial arts contest held as a recreational activity by active duty armed forces, armed forces reserve, or national guard personnel, or the Police Activities League, when the contest is held under the supervision of a recreational officer of the active duty armed forces, armed forces reserve, national guard, or a Police Activities League staff member.

§ -27 **Revocation; suspension.** (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, fine, reprimand, or condition in any manner, the license of any person or entity issued for this chapter, for any cause authorized by law, including but not limited to the following:

- (1) Violation of any provision of this chapter or the rules adopted by the director, or any other law or rule that applies to those persons licensed under this chapter;
- (2) Manifest incapacity, professional misconduct, or unethical conduct;
- (3) Making any false representations or promises through advertising or other dissemination of information;
- (4) Any fraudulent, dishonest, or deceitful act in connection with the licensing of any promoter under this chapter or in connection with any mixed martial arts contest;
- (5) Making any false or misleading statement in any application or document submitted or required to be filed under this chapter;
- (6) Revocation or suspension of a license or other disciplinary action against the licensee by any other regulatory entity over mixed martial arts contests;
- (7) Failure to report any disciplinary action, including medical and mandatory suspensions, or revocation or suspension of a license in another jurisdiction not less than fifteen calendar days preceding any mixed martial arts match in which the licensee participates or within thirty calendar days following the disciplinary decision, whichever is earlier; or
- (8) Participation in any sham or false mixed martial arts contest.

(b) A manager may be held responsible for all violations of this chapter by a mixed martial arts contestant whom the manager manages and may be subject to license revocation or suspension, or a fine, or any combination thereof, irrespective of whether any disciplinary action is taken against the mixed martial arts contestant.

§ -28 **Penalties.** (a) Any person in violation of this chapter or the rules adopted pursuant thereto shall be fined not more than \$5,000 for each violation. Each day's violation or failure to comply shall be deemed a separate offense.

(b) In addition to the penalties provided in this chapter, any person in violation of this chapter may be prohibited from engaging in any mixed martial arts activities in the state for a period in conformity with that set forth in section 92-17.

§ -29 **Cumulative penalties.** Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

§ -30 **Injunctive relief.** The director may, in addition to any other remedies available, bring an action in any court of this State to enjoin a person from continuing any violation of this chapter or doing any acts in furtherance thereof, and for any other relief that the court deems appropriate."

SECTION 2. Chapter 440D, Hawaii Revised Statutes, is repealed.

SECTION 3. There is appropriated out of the compliance resolution fund the sum of \$130,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$205,000 or so much thereof as may be necessary for fiscal year 2008-2009 to fund the operational and administrative expenses in implementing this Act and regulating mixed martial arts contests.

The sums appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act, which shall include the hiring of a regulatory boards and commissions administrative assistant, secretary, and clerks.

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. This Act shall take effect on July 1, 2009; provided that:

- (1) Section -4 in section 1 of this Act shall take effect upon its approval; and
- (2) Section 3 of this Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 280

H.B. NO. 1014

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 partly as a result of the accountability movement and the demands of the federal No Child Left Behind law, school complex areas and district offices have often focused more on compliance rather than support services. Complex area schools need greater resources that support schools and teachers to create more successful teaching throughout the complex area.

The legislature further finds that a complete support system for teaching includes more personnel and funding for professional development programs coordinated at the complex area level, mentoring for new teachers at the schools, and funds for teacher professional development in key areas of the curriculum.

The purpose of this Act is to provide funding for support services and funding for teacher professional development within the department of education at the complex area level.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$585,000 or so much thereof as may be necessary for fiscal year 2007-2008 for not more than five complex areas to establish the capacity to coordinate and expand complex-level resources for support services including professional development, alignment of curriculum, and mentoring in schools; provided that funds appropriated in this section shall be allocated to each complex area based on the per pupil enrollments in each complex area. The complexes selected shall be those that have schools where there is a high turnover of teachers or hard-to-fill vacancies and have few other resources for professional development.

The sum appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$165,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the Teach for America Program.

## ACT 281

The sum appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 281

S.B. NO. 688

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 preparing and planning for Hawaii's future in the twenty-first century is complex and multifaceted. The education of Hawaii's youth, including early childhood through K-12 schooling to college and career and work force training, continues to be of critical importance. The legislature believes that the vision and plans for education and schools at mid-century cannot be initiated too early, and therefore the legislature supports the Hawaii P-20 initiative. The initiative is a consortium of public and private educators, governmental officials, and community leaders working together to improve learner achievement in Hawaii.

The purpose of this Act is to provide the impetus to develop the vision and plans for education in Hawaii for the twenty-first century by funding the Hawaii P-20 Initiative.

SECTION 2. The Hawaii P-20 initiative council shall develop and initiate plans for education in Hawaii in the twenty-first century, including identifying contributors and planners; creating a vision, goals, objectives, and timelines; and organizing meetings and electronic communication. The general goals of the council shall be to ensure an engaged, responsible, and productive citizenry in Hawaii in the twenty-first century that is the expected result of an education system and schools that are coordinated and articulated from earliest teaching to career and workforce preparation and that promote lifelong learning.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum, or so much thereof as may be necessary for fiscal year 2008-2009 for the Hawaii P-20 Initiative to develop and initiate plans for education in Hawaii in the twenty-first century.

The sums appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 4. The Hawaii P-20 initiative council shall prepare progress reports for the legislature no later than the last day of each calendar year for which it is funded by this and future Acts.

SECTION 5. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 282

H.B. NO. 767

A Bill for an Act Relating to the Running Start Program for College Preparation.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Students and families of underrepresented populations in higher education are often discouraged by the perceived costs of college attendance. Scholarships embedded in a program of college preparation and support can be an effective motivating factor for these students to pursue and attend college.

High school students often want to enroll in classes other than those on the currently-approved department of education list. These students should be allowed and, in fact, encouraged to take university courses at the one-hundred level and above and have those classes qualify as credit toward high school graduation. The running start program, a joint program of the department of education and the University of Hawaii that was created pursuant to section 302A-401, Hawaii Revised Statutes, is helpful in preparing students of underrepresented populations for college entry. Earning dual credit for both high school and college can provide motivation and preparation that enhances these students' opportunities to attend college.

Experience with the running start program has shown that students in underrepresented populations may not be participating in the program because of financial difficulty. Experience has also shown that there has been some confusion about obtaining dual credit for courses completed at the University of Hawaii.

The purpose of this Act is to:

- (1) Require the department of education to provide students who participate in the running start program with guidance in earning credit toward high school graduation for successful completion of one-hundred level and above University of Hawaii courses; and
- (2) Increase financial support for the families of low-income and underrepresented students.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§302A- Running start credits.** The department shall provide students who participate in the running start program with guidance in earning credit toward high school graduation upon the satisfactory completion of University of Hawaii courses at the one-hundred level and above pursuant to section 302A-401.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 to be deposited into the University of Hawaii scholarship and assistance special fund.

SECTION 4. There is appropriated out of the University of Hawaii scholarship and assistance special fund the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 to provide scholarships to students who are members of underrepresented populations in higher education, as determined by the University of Hawaii, to participate in the running start program.

The sums appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon approval; provided that sections 3 and 4 shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 283**

S.B. NO. 1931

A Bill for an Act Relating to Education.

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

**PART I  
EDUCATIONAL WORKFORCE WORKING GROUP**

SECTION 1. (a) There is established an educational workforce working group within the department of labor and industrial relations for administrative purposes only. The chairperson of the workforce development council or the chairperson's designee shall convene the first meeting of the educational workforce working group no later than August 1, 2007, at which time the members shall select a chair, to examine and address the following issues:

- (1) How well the workforce needs of Hawaii are currently being met;
- (2) How prepared the State is to meet the workforce needs of the future;
- (3) What recommendations can be made to improve Hawaii's educational system to fulfill the workforce needs of the future;
- (4) What is the current relationship between the public schools and emerging industries;
- (5) What percentage of high school students participate in any form of vocational or professional training outside of the school setting;
- (6) What aspects of high school curriculum, standards, and assessment strategies have a direct relationship to the State's future workforce needs;
- (7) What are the challenges or impediments to creating a more direct relationship between schools and economy-driving industries of the State;
- (8) How might autonomous schools-within-schools, magnet schools, specialized schools, and charter schools be better used to create more direct links between high schools and economy-driving industries of the State; and
- (9) How might the size of public schools, the distribution of discretionary funding, the decentralized authority of school community councils or charter school local school boards, and other organizational reforms be better used to satisfy the workforce development needs of the information and technology age.

(b) The educational workforce working group shall submit a report on its findings and recommendations regarding the issues set forth in subsection (a), including any recommendations and proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2008.

(c) The membership of the educational workforce working group shall be as follows:

- (1) Two representatives appointed by the president of the senate;
- (2) Two representatives appointed by the speaker of the house of representatives;
- (3) The director of business, economic development, and tourism or the director's designee;
- (4) The superintendent of education or the superintendent's designee;
- (5) Two representatives from the University of Hawaii system; provided that at least one shall be the chancellor of a community college;
- (6) Two high school principals appointed by the superintendent of education from the high school principals leadership group;
- (7) The executive director of the Hawaii P-20 council or the executive director's designee;
- (8) The chairperson of the workforce development council or the chairperson's designee;
- (9) The president and chief executive officer of Enterprise Honolulu or the president and chief executive officer's designee;
- (10) The president of the Hawaii Science and Technology Council or the president's designee;
- (11) The president and chief executive officer of the Hawaii Community Foundation or the president and chief executive officer's designee; and
- (12) The executive director of the Honolulu Community Action Program or the executive director's designee.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the educational workforce working group.

The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this part.

## PART II EDUCATING HAWAII'S WORKFORCE

SECTION 3. The department of education shall include within its strategic plan, plans to ensure optimal use of technology for administration, data collection, and data sharing related to educational and workforce needs, and plans to ensure that personalized student education plans will provide a direct link to economic and workforce needs.

The department of education shall submit a report containing its five-year plan to the legislature no later than twenty days prior to the convening of the regular session of 2008.

SECTION 4. The University of Hawaii shall prepare a report detailing:

- (1) The current activities on each of its campuses to prepare students with the skills and knowledge needed to successfully enter and progress in the Hawaii workforce;
- (2) The University of Hawaii's current plans to increase the percentage of Hawaii high school graduates who continue their education by enrolling at a University of Hawaii campus and to increase the percentage of students who earn degrees or certificates within one hundred fifty per cent of the planned length of the degree, particularly in fields where the State is experiencing shortages of qualified employees; and

- (3) Recommendations about additional steps the State needs to consider implementing to increase the number of qualified workers in the State.

The University of Hawaii shall submit the report to the legislature no later than twenty days prior to the convening of the regular session of 2008.

SECTION 5. (a) There is appropriated out of the general revenues of the State of Hawaii the sum of \$125,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2008-2009 for 2.0 (FTE) workforce development liaison positions and 1.0 (FTE) support staff position within the department of education to assist the department of education in coordinating workforce development efforts with the various departments, agencies, businesses, and organizations, including the University of Hawaii and public school academies, within the State to provide students with:

- (1) Career exploration, awareness, and mentoring;
- (2) Access to unpaid and paid internships and experiential learning opportunities; and
- (3) Job placement assistance;

provided that the duties of the workforce development liaisons shall be divided into public sector and private sector relationships. The public sector liaison shall be responsible for coordinating workforce development efforts between the department of education and any department or agency of the State, the counties, or any political subdivisions thereof, and the private sector liaison shall be responsible for coordinating workforce development efforts between the department of education and businesses, nonprofit organizations, and other private sector organizations.

(b) The workforce development liaisons shall also be responsible for:

- (1) Identifying future workforce need areas, such as nursing, teaching, science and technology, and agribusiness;
- (2) Working to establish new academies to support growth in workforce need areas;
- (3) Interfacing with the business community to determine what skill sets are necessary and to create mutually beneficial relationships between the schools or academies and businesses, including the development of paid internships and facilitation of job opportunities; and
- (4) Assisting the public schools and the academies with curriculum integration and other department of education functions.

The sums appropriated shall be expended by the department of education for the purposes of this part.

SECTION 6. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

A Bill for an Act Relating to Health.

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

SECTION 1. The legislature finds that medicaid is the cornerstone of health care for our most needy population. Further, the legislature has previously recognized that it is in the public interest to ensure that health care payments made with

state funds or controlled by the State are sufficient to cover the actual costs of care. However, inadequate payment and reimbursement from medicaid have compromised access to medical care not only for the uninsured and those covered by medicaid but also for individuals who are covered by private employer-based health insurance.

As documented in numerous media reports, medical care services, especially in specialty care coverage in rural areas and on the neighbor islands, has reached crisis proportions.

Hawaii's physicians servicing medicaid eligible persons have been adversely affected by the inadequacy of medicaid reimbursements and payments.

The purpose of this Act is to increase the payment for physician services for medicaid eligible persons including fee-for-service and QUEST eligible individuals.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$8,000,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof that may be necessary for fiscal year 2008-2009 to increase moneys paid out for physician services for the care of medicaid eligible persons, including fee-for-service and QUEST physician services.

The sums appropriated shall be expended by the department of human services for the purposes of this Act; provided that:

- (1) The sum is equitably distributed between medicaid fee-for-service physician services and health plans that provide QUEST physician services so that the health plans can increase the payment for these physician services; and
- (2) The increased moneys, when added to the amount of reimbursement payable under the medicaid fee schedule, shall in no event exceed one hundred per cent of the current medicare fee schedule applicable to Hawaii.

**SECTION 3.** The department of human services shall include in its supplemental budget request for fiscal year 2008-2009 a sum at least equal to the sum appropriated in section 2 in addition to its baseline medicaid request that will allow for increased moneys to be paid out for physician services for medicaid eligible persons, including fee-for-service and QUEST physician services. The department shall report the amount of the baseline medicaid sum and the additional funds to be paid out for physician services to the legislature no later than twenty days prior to the convening of the 2008 regular session.

**SECTION 4.** The department of human services shall report to the legislature no later than twenty days prior to the convening of the 2008 regular session with the amount of funding necessary to:

- (1) Continue the increased payments for physician services up to one hundred per cent of the current medicare fee schedule applicable to Hawaii; and
- (2) Increase payments up to one hundred per cent of the current medicare fee schedule applicable to Hawaii to all medicaid fee-for-service and QUEST providers, if approved.

**SECTION 5.** This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

A Bill for an Act Relating to Solid Waste.

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

SECTION 1. The governor vetoed S.B. No. 3181, C.D. 1 (2006), based primarily upon the difficulty of redeeming and recycling the sixty-eight-fluid-ounce containers. The legislature finds that the widespread use of sixty-eight-fluid-ounce bottles warrants their inclusion in the deposit beverage container program, notwithstanding technical obstacles that can be remedied over time. Currently, containers up to sixty-four-fluid-ounce are included in the deposit beverage deposit redemption program without recycling challenges. Sixty-eight-fluid-ounce containers, which are comprised of mainly of two liter soda and water drinks, are of the same recyclable composition as sixty-four-fluid-ounce containers and there is no logical reasoning for its exclusion because of a four-ounce difference in size.

The purpose of this Act is to, among other things, increase the size of the eligible deposit beverage container and to allow the director of health some discretion in temporarily suspending the deposit beverage container handling fee if it is determined that the deposit beverage container deposit special fund contains sufficient funds.

SECTION 2. Section 342G-101, Hawaii Revised Statutes, is amended by amending the definition of “deposit beverage container” to read as follows:

““Deposit beverage container” means the individual, separate, sealed glass, polyethylene [~~terephthalate,~~] terephthalate, high density polyethylene, or metal container less than or equal to [~~sixty-four~~] sixty-eight fluid ounces, used for containing, at the time of sale to the consumer, a deposit beverage intended for use or consumption in this State.”

SECTION 3. Section 342G-102, Hawaii Revised Statutes, is amended to read as follows:

“**§342G-102 Deposit beverage container fee.** (a) Beginning on October 1, 2002, every deposit beverage distributor shall pay to the department a deposit beverage container fee on each polyethylene terephthalate, high density polyethylene, or metal deposit beverage container manufactured in or imported into the State. The fee shall be imposed only once on the same deposit beverage container. The fee shall be 0.5 cents per deposit beverage container.

(b) Beginning on October 1, 2004, every deposit beverage distributor shall pay to the department a deposit beverage container fee on each deposit beverage container manufactured in or imported into the State. The deposit beverage container fee shall not apply to deposit beverage containers exported for sale outside of the State. The fee shall be imposed only once on the same deposit beverage container. The fee shall be 1 cent per deposit beverage container.

(c) No county shall impose or collect any assessment or fee on deposit beverage containers for the same or similar purpose that is the subject of this chapter.

(d) Beginning January 1, 2005, and every August 1 thereafter, the department shall notify deposit beverage distributors in writing of the amount of the deposit beverage container fee. The effective date of changes to the fee amount shall be September 1. The fee shall be based on the redemption rate calculated annually based on the redemption rate information submitted to the department for the previous period of July 1 through June 30. The fee amount shall be as follows:

- (1) If the redemption rate is seventy per cent or less: 1 cent per container; and
- (2) If the redemption rate is greater than seventy per cent: 1.5 cents per container.

(e) The director may temporarily suspend an automatic increase of the deposit beverage container fee if, after consultation with the auditor, it is determined that the deposit beverage container deposit special fund contains sufficient funds for the purposes of section 342G-104(b)."

SECTION 4. Section 342G-105, Hawaii Revised Statutes, is amended to read as follows:

**“[[§342G-105]] Deposit beverage container inventory report and payment.** (a) ~~[Beginning October 1, 2002, payment]~~ Payment of the deposit beverage container fee and deposits as described in section 342G-110 shall be made monthly based on inventory reports of the deposit beverage distributors. All deposit beverage distributors shall submit to the department documentation in sufficient detail that identifies[:

- (1) ~~The number of beverages in deposit beverage containers, by container size and type, manufactured in or imported to the State; and~~
- (2) ~~The number of these deposit beverage containers, by container size and type, exported and intended for consumption out of the State during the reporting period.]~~ the net number of deposit beverage containers sold, donated, or transferred, by container size and type.

(b) The amount due from deposit beverage distributors shall be the net number of deposit beverage containers ~~[imported or manufactured into the State (the total number of containers imported or manufactured less the total number of containers exported for consumption outside the State)]~~ sold, donated, or transferred multiplied by the sum of the prevailing deposit beverage container fee and the refund value of 5 cents. Payment shall be made by check or money order payable to the “Department of Health, State of Hawaii”. All inventory reports and payments shall be made no later than the fifteenth day of the month following the end of the payment period of the previous month.”

SECTION 5. Section 342G-111, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Each deposit beverage distributor shall generate and submit to the department a monthly report on[:

- (1) ~~The number of deposit beverage containers, by container size and type, manufactured in or imported into the State; and~~
- (2) ~~The number of deposit beverage containers, by container size and type, exported and intended for consumption out of the State during the reporting period.]~~ the net number of deposit beverage containers sold, donated, or transferred by container size and type. All information contained in the reports, including confidential commercial and financial information, shall be treated as confidential and protected to the extent allowed by state law.”

SECTION 6. Section 342G-112, Hawaii Revised Statutes, is amended to read as follows:

**“§342G-112 Deposit beverage container requirements.** (a) Except as provided in subsection (b), every deposit beverage container sold in the State shall clearly indicate the refund value of the container and the word “Hawaii” or the letters “HI”. The names or letters representing the names of other states with

comparable deposit legislation may also be included in the indication of refund value. The refund value on every deposit beverage container shall be clearly, prominently, and indelibly marked by painting, printing, scratch embossing, raised letter embossing, or securely affixed stickers and shall be affixed on the top or side of the container in letters at least one-eighth inch in size.

(b) Subsection (a) [does] shall not apply to any type of refillable glass deposit beverage container [which] that has a brand name permanently marked on it and [which] that has the equivalent of a refund value of at least 5 cents, which is paid upon receipt of the container by a dealer or deposit beverage distributor.

~~[(c) All deposit beverage containers that do not indicate the Hawaii refund value by January 1, 2005, and are intended for sale shall be sold with stickers as specified in subsection (d).~~

~~(d) Stickers that indicate the Hawaii refund value may be purchased from the department from November 1, 2004, to December 31, 2004. Surplus stickers may be redeemed at the department by March 1, 2005. The cost of a sticker shall be equal to the Hawaii refund value.]~~

(c) Containers that do not meet the definition of a deposit beverage container, as specified in section 342G-101, shall not indicate "Hawaii" or "HI" on the container.'

SECTION 7. Section 342G-114, Hawaii Revised Statutes, is amended to read as follows:

**"§342G-114 Redemption centers.** (a) Prior to operation, redemption centers shall be certified by the department.

(b) Applications for certification as a redemption center shall be filed with the department on forms prescribed by the department.

(c) The department, at any time, may review the certification of a redemption center. After written notice to the person responsible for the establishment and operation of the redemption center and to the dealers served by the redemption center, the department, after it has afforded the redemption center operator a hearing in accordance with chapter 91, may withdraw the certification of the center if it finds that there has not been compliance with applicable laws, rules, permit conditions, or certification requirements.

(d) Redemption centers shall:

(1) Accept all types of empty deposit beverage containers for which a deposit has been paid;

(2) Verify that all containers to be redeemed bear a valid Hawaii refund value;

(3) Pay to the redeemer the full refund value in either cash or a redeemable voucher for all deposit beverage containers, except as provided in section 342G-116;

(4) Ensure each deposit beverage container collected is recycled through a contractual agreement with an out-of-state recycler or an in-state recycling facility permitted by the department; provided that this paragraph shall not apply if the redemption center is operated by a recycler permitted by the department; ~~[and]~~

(5) Remain open at least thirty hours per week in high density population areas, of which at least five hours shall be on Saturday or Sunday; and

~~[(5)] (6) Forward the documentation necessary to support claims for payment as stated in section 342G-119.~~

(e) Redemption centers' redemption areas shall be maintained in full compliance with applicable laws and with the orders and rules of the department, including permitting requirements, if deemed necessary, under chapter 342H.

(f) The department shall develop procedures to facilitate the exchange of information between deposit beverage container manufacturers, distributors, and retailers and certified redemption centers, including but not limited to universal product code information for reverse vending machine purposes. The procedures developed by the department shall allow for a reasonable time period between the introduction of a new deposit beverage product and the deadline for submitting universal product code information to certified redemption centers operating reverse vending machines.”

SECTION 8. Section 342G-115, Hawaii Revised Statutes, is amended to read as follows:<sup>1</sup>

“**§342G-115 Reverse vending machine requirements.** Reverse vending machines may be used by redemption centers to satisfy the requirements of section 342G-113. Reverse vending machines shall accept any type of empty deposit beverage container and pay out the full refund value in either cash or a redeemable voucher for those containers that bear a valid Hawaii refund value. If the reverse vending machine is unable to read the barcode then the reverse vending machine shall reject the container. The reverse vending machine shall be routinely serviced to ensure proper operation and continuous acceptance of empty deposit beverage containers and payment of the refund value.”

SECTION 9. Section 342G-116, Hawaii Revised Statutes, is amended to read as follows:

“**§342G-116 Refusal of refund value payment for a deposit beverage container.** Redemption centers shall refuse to pay the refund value on any broken, corroded, or dismembered deposit beverage container, or any deposit beverage container that:

- (1) Contains a free-flowing liquid;
- (2) Does not properly indicate a refund value; [ø]
- (3) Contains a significant amount of foreign material[-]; or
- (4) Exhibits characteristics of having been previously processed and baled.”

SECTION 10. Section 342G-117, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The department shall pay to each certified redemption center a handling fee of not less than the prevailing deposit beverage container fee for each deposit beverage container redeemed by a consumer that is:

- (1) Transported out-of-state;
- (2) Received by an approved in-state company for an approved end use for recycling; or
- (3) Received by a department-permitted recycling facility[-];

provided that the deposit beverage container is physically received by the redemption center.”

2. By amending subsection (c) to read:

“(c) The handling fee shall be paid in addition to the refund value of each empty deposit beverage container. Payments for handling fees shall be based on redemption center reports submitted to the department; provided that there is no discrepancy in the reports. The department may choose to pay the handling fee and refund value on the basis of the total weight of the containers received by material

type and the average weight of each container type[-]; provided that the deposit beverage container is physically received by the redemption center.”

SECTION 11. The department of health shall phase-in all requirements affecting the redemption of sixty-eight-fluid-ounce containers, beginning December 1, 2007, as follows; provided that the phase-in shall be completed by March 1, 2008:

- (1) From December 1, 2007, distributors of deposit beverage containers may begin marking sixty-eight-fluid-ounce deposit beverage containers as required under section 342-112(a)<sup>2</sup>, Hawaii Revised Statutes;
- (2) From December 1, 2007, until March 1, 2008, a sixty-eight-fluid-ounce deposit beverage container may be redeemed under the deposit beverage container program, without regard to whether the container bears the refund value of the container and the word “Hawaii” or the letter “HI”, required by section 342G-112(a), Hawaii Revised Statutes;
- (3) Beginning March 1, 2008, every deposit beverage container holding up to sixty-eight fluid ounces and sold in the state shall be marked as required under section 342G-112(a), Hawaii Revised Statutes; and
- (4) Beginning March 1, 2008, only deposit beverage containers meeting the requirements of section 342G-112(a), Hawaii Revised Statutes, shall be eligible for redemption.

SECTION 12. (a) The legislature finds that the public interest in protecting the environment takes precedence over the delay in implementation of redemption of sixty-eight-fluid-ounce beverage containers under this Act. The legislature finds that the redemption rate is below the balance of the deposit beverage container deposit special fund.

(b) The department of health shall reimburse a redemption center, from the deposit beverage container deposit special fund, the refund values paid to a redeemer, as defined in section 342G-101, Hawaii Revised Statutes, for sixty-eight-fluid-ounce containers redeemed between December 1, 2007, and March 1, 2008, pursuant to section 11 of this Act; provided that a redemption center shall provide collection reports under section 342G-119, Hawaii Revised Statutes, for the sixty-eight-fluid-ounce beverage containers.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

**Notes**

1. Section 342G-115 contains no amendment.
2. Should probably be “342G-112(a)”.

**ACT 286**

H.B. NO. 497

A Bill for an Act Relating to Transportation.

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

SECTION 1. Section 248-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Moneys in the state highway fund may be expended for the following purposes:

- (1) To pay the costs of operation, maintenance, and repair of the state highway system, including without limitation, the cost of equipment and general administrative overhead;
- (2) To pay the costs of acquisition (including real property and interests therein), planning, designing, construction, and reconstruction of the state highway system and bikeways, including, without limitation, the cost of equipment and general administrative overhead; [~~provided that the director of transportation shall allot and expend two per cent of federally eligible moneys in the state highway fund for bikeways;~~]
- (3) To reimburse the general fund for interest on and principal of general obligation bonds issued to finance highway projects where the bonds are designated to be reimbursable out of the state highway fund; and
- (4) To pay the costs of construction, maintenance, and repair of county roads; provided that none of the funds expended on a county road or program shall be federal funds when such expenditure would cause a violation of federal law or a federal grant agreement.”

SECTION 2. Section 264-18, Hawaii Revised Statutes, is amended to read as follows:

1. By amending subsection (a) to read:

“(a) Out of the state highway fund [reasonable] amounts, whether state funds or federal funds, shall be expended as necessary by the State for the establishment of bikeways[~~-Bikeways~~]; provided that bikeways<sup>1</sup> shall be established, whenever practicable, wherever a new or existing highway, road, or street is being designed, planned, constructed, reconstructed, relocated, or rehabilitated. At least two per cent of eligible federal funds, and in addition, other state highway fund moneys as available, shall be expended to:

- (1) Establish multi-use paths, bicycle paths, and bicycle lanes; and
- (2) Install signage and safety devices along bikeways;

provided that the department of transportation shall include the bicycling community in a public involvement process to determine the location of multi-use paths, bicycle paths, bicycle lanes, and installation of signage and safety devices along bikeways.

Planning for any mass transit system shall include appropriate accommodation for bicycle lanes, bikeways, and bicycle routes, including bicycle racks on mass transit vehicles, to enable mass transit users to connect conveniently by bicycle to transit stations and bus stops.

This subsection shall not be construed as requiring the expenditure of a county surcharge on state tax under section 46-16.8, on bicycle paths if the application of this subsection conflicts with section 46-16.8.”

2. By amending subsection (b) to read:

“(b) Bikeways are not required to be established under subsection (a):

- (1) Where the establishment of the lanes, paths, routes, and ways would be contrary to public safety; or
- (2) If the cost of establishing the lanes, paths, routes, and ways would be excessively disproportionate to the need or probable use; or
- (3) Where low population density, other available ways, or other factors indicate an absence of any need for the lanes, paths, routes, and ways[-];

provided that the department of transportation shall involve representatives of the bicycling community, such as the Hawaii Bicycling League, Kauai PATH, Maui

**ACT 287**

Bicycling Alliance, PATH (Big Island), and others in making a determination under paragraphs (1), (2), and (3); provided further that any decision under this subsection shall be documented, including but not limited to, the factors considered in making a decision; and provided further that the department of transportation shall have the burden of persuasion under paragraphs (2) and (3)."

3. By amending subsection (d) to read:

"(d) As used in this section, the [term] terms "bikeway", "bicycle path", and "bicycle lane" shall have the same meaning as in section 291C-1."

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

SECTION 4. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. "Bikeways" should be underscored.

**ACT 287**

H.B. NO. 399

A Bill for an Act Relating to Agriculture

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

SECTION 1. The legislature finds that chapter 180, Hawaii Revised Statutes, allowed for the establishment of soil and water conservation districts as subdivisions of the State to act, educate, construct, maintain, and assist in the development of conservation plans and oversee county grading ordinances.

The first soil and water conservation district was established on the island of Maui in 1948, to assist Kula farmers. Since then, fifteen other districts have been established, each with up to five board members and any number of associate, nonvoting board members. All board members are nonpaid volunteers serving two-year terms. Together, the sixteen soil and water conservation districts form the Hawaii Association of Conservation Districts.

The purpose of this Act is to make an appropriation to fund the Hawaii Association of Conservation districts in its operational expenses for all of its soil and water conservation districts.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2007-2008 to the Hawaii Association of Conservation Districts for the operation of the soil and water conservation districts.

The sums appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 288

S.B. NO. 1047

A Bill for an Act Relating to Highway Safety.

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

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

**“§286- Commercial drivers under the age of twenty-one.** A person is qualified to drive commercially in the state in intrastate commerce if the person:

- (1) Is at least nineteen years of age;
- (2) Is in compliance with Title 49 Code of Federal Regulations, Part 390-396, Subpart B, except Section 391.11(b)(1) in the case of an intrastate driver involved in intrastate commerce in the state;
- (3) Only operates a category 3 vehicle as defined in section 286-102(b)(3);
- (4) Shall not transport hazardous materials as defined in section 286-2, nor passengers in a school vehicle as defined in section 286-181; and
- (5) Has had a category 3 state driver’s license for the two years immediately preceding driving commercially under this section, with the following conditions:
  - (A) Has not had any license suspended, revoked, or canceled; and
  - (B) Has not had any conviction for:
    - (i) Speeding excessively involving any speed of fifteen miles per hour or more above the speed limit;
    - (ii) Driving recklessly, as defined by state or local law or regulation, including but not limited to offenses of driving a motor vehicle in wilful or wanton disregard for the safety of person or property;
    - (iii) Making improper or erratic traffic lane changes;
    - (iv) Following the vehicle ahead too closely; or
    - (v) Violating state or local law relating to motor vehicle traffic control, excluding parking violations, arising in connection with a fatal accident.”

SECTION 2. Section 286-2, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

“‘Intrastate commerce’ means trade, traffic, or transportation between two places in the State that originates and terminates within the State.

“‘Intrastate driver’ means a driver, not less than nineteen years of age, engaged in intrastate commerce, except in the transportation of passengers in a school vehicle, as defined in section 286-181, or in the transportation of hazardous materials, as defined in section 286-2.”

SECTION 3. Section 853-4, Hawaii Revised Statutes, is amended to read as follows:

**“§853-4 Chapter not applicable; when.** This chapter shall not apply when:

- (1) The offense charged involves the intentional, knowing, reckless, or negligent killing of another person;
- (2) The offense charged is:

- (A) A felony that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person; or
- (B) A misdemeanor or petty misdemeanor that carries a mandatory minimum sentence and that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person;
- (3) The offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;
- (4) The offense charged is a class A felony;
- (5) The offense charged is nonprobationable;
- (6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct that if perpetrated in this State would be punishable as a felony;
- (7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal Code or for any conduct that if perpetrated in this [State] state would constitute a felony;
- (8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign jurisdiction;
- (9) A firearm was used in the commission of the offense charged;
- (10) The defendant is charged with the distribution of a dangerous, harmful, or detrimental drug to a minor;
- (11) The defendant has been charged with a felony offense and has been previously granted deferred acceptance of guilty plea status for a prior offense, regardless of whether the period of deferral has already expired;
- (12) The defendant has been charged with a misdemeanor offense and has been previously granted deferred acceptance of guilty plea status for a prior felony, misdemeanor, or petty misdemeanor for which the period of deferral has not yet expired;
- (13) The offense charged is:
  - (A) Escape in the first degree;
  - (B) Escape in the second degree;
  - (C) Promoting prison contraband in the first degree;
  - (D) Promoting prison contraband in the second degree;
  - (E) Bail jumping in the first degree;
  - (F) Bail jumping in the second degree;
  - (G) Bribery;
  - (H) Bribery of a witness;
  - (I) Intimidating a witness;
  - (J) Bribery of or by a juror;
  - (K) Intimidating a juror;
  - (L) Jury tampering;
  - (M) Promoting prostitution in the first degree;
  - (N) Promoting prostitution in the second degree;
  - (O) Promoting prostitution in the third degree;
  - (P) Abuse of family or household members;
  - (Q) Sexual assault in the second degree;
  - (R) Sexual assault in the third degree;
  - (S) A violation of an order issued pursuant to chapter 586;
  - (T) Promoting child abuse in the second degree;
  - (U) Promoting child abuse in the third degree;

- (V) Electronic enticement of a child in the first degree; or
- (W) Electronic enticement of a child in the second degree; [œ]
- (14) The defendant has been charged with:
  - (A) Knowingly or intentionally falsifying any report required under chapter 11, subpart B of part XII, with the intent to circumvent the law or deceive the campaign spending commission; or
  - (B) Violating section 11-201 or 11-202[-]; or
- (15) The defendant holds a commercial driver's license and has been charged with violating a traffic control law, other than a parking law, in connection with the operation of any type of motor vehicle.

The court may adopt by rule other criteria in this area.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

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

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 289**

H.B. NO. 531

A Bill for an Act Relating to Children.

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

SECTION 1. The federal Individuals with Disabilities Education Improvement Act provides that children with disabilities are entitled to receive a free and appropriate public education. To the extent possible, children with special needs are to be provided with the same educational experiences as their non-disabled peers. Under the federal No Child Left Behind Act, states are held accountable for ensuring that all children are afforded the opportunity to learn.

Section 619 of Part B of the Individuals with Disabilities Education Improvement Act implements the earlier landmark Public Law 94-142, known as the Individuals with Disabilities Education Act, which ensures a free and appropriate public education for individuals with disabilities that may include special education and related services in the least restrictive environment for children three years and one day up to five years of age with disabilities. Part C of the Individuals with Disabilities Education Improvement Act directs states to provide early intervention services in the child's natural environment, which may include the child's home or other locations with their typically developing peers. Those early intervention services, for infants and toddlers with disabilities from birth to age three, and their families, may include information and support to parents to increase their knowledge about and ability to support their child's development.

Because of the complexity of the transition process for children from being a toddler or infant to being a preschool child, some eligible children may benefit from a longer transition period and continued services in the child's natural environment under programs offered pursuant to Part C of the Individuals with Disabilities Education Improvement Act, instead of placement under Part B of that Act, which mandates services to be provided in the least restrictive environment. Further, due to the differences in eligibility criteria between Part B and Part C, approximately

twenty-five per cent of children three years and one day up to five years of age who exited Part C programs in 2004, were eligible to receive services through Part B programs.

Hawaii's early intervention section of the department of health is a federal and state mandated program that provides services to support the development of children from birth to three years of age, along with information and support for parents that increases their knowledge about and ability to support their child's development. However, children with developmental delays may require services beyond age three that could be provided by the early intervention section of the department of health.

The purpose of this Act is to provide a mechanism to study the feasibility of expanding Hawaii's early intervention section to continue services for children three years and one day up to five years of age through programs usually provided to infants and toddlers pursuant to section 619 of the Individuals with Disabilities Education Improvement Act, and if deemed appropriate, to develop the infrastructure and support services necessary to provide continued services in the natural environments.

SECTION 2. (a) There is established a "Hawaii 3-5 transition" task force to study the feasibility of expanding Hawaii's early intervention section to continue services for children three years and one day up to five years of age.

(b) The members of the task force shall include representation from the neighbor islands, rural Oahu, and underserved populations and shall include at least two parents of children who may require these services and one representative from each of the following:

- (1) The department of health;
- (2) The department of education;
- (3) The department of human services;
- (4) The office of the governor;
- (5) The board of education;
- (6) The Hawaii early intervention coordinating council;
- (7) The special education advisory council;
- (8) The Hawaii state council on developmental disabilities;
- (9) The department of education's Section 619 state and district coordinator;
- (10) The Good Beginnings Alliance;
- (11) Early intervention service providers;
- (12) Head Start providers;
- (13) The American Academy of Pediatrics, Hawaii Chapter;
- (14) The University of Hawaii, college of education, personnel preparation faculty;
- (15) The Hawaii Association for the Education of Young Children;
- (16) Kia'i ka 'ike;
- (17) Early childhood special education professional development programs;
- (18) One member of the house of representatives appointed by the speaker of the house; and
- (19) One member of the senate appointed by the president of the senate.

(c) The department of health shall convene the task force, and the department of health and the department of education shall provide staff support to the task force, as necessary.

(d) The members of the task force shall serve without compensation but shall be reimbursed for necessary expenses, including travel expenses incurred in the performance of their duties.

(e) In completing the feasibility study, the task force shall:

- (1) Identify the potential number of children, on an annual basis, who exit Part C programs, are eligible for programs under Part B Section 619 of the Individuals with Disabilities Education Improvement Act, but may benefit from a longer transition period and continued Part C program services in the child's natural environment or community-based settings;
  - (2) Identify the potential number of children, on an annual basis, who exit Part C programs, are found not eligible for services under Part B of Section 619 of the Individuals with Disabilities Education Improvement Act, but continue to have developmental delays and who may benefit from intervention services between the ages of three years and one day up to five years of age;
  - (3) Identify the potential number of children, on an annual basis, who have not received services through Part C programs, but are identified as having developmental delays and who may benefit from intervention services between the ages of three years and one day up to five years of age;
  - (4) Research evidence-based practices in order to define service models for children between the ages of three years and one day up to five years of age necessary to meet the needs of this population;
  - (5) Define the array of services required for children between the ages of three years and one day up to five years of age with developmental delays;
  - (6) Based upon the potential number of children to be served, derive resource and cost projections to implement services; and
  - (7) Conduct a needs assessment of families focusing on their experiences transitioning out of Part C programs, as well as transitioning into Part B programs.
- (f) The task force shall also:
- (1) Project the length of time required to develop the necessary resource pool to serve the targeted population;
  - (2) Develop indicators for evaluation to assess the outcomes of the early intervention system providing services to children between the ages of three years and one day up to five years of age with developmental delays;
  - (3) Submit a report to the legislature not later than twenty days prior to the convening of the 2008 regular session. The report shall include:
    - (A) Recommendations regarding the feasibility of expanding Hawaii's early intervention section to serve children between three years and one day up to five years of age with developmental delays;
    - (B) If deemed feasible, recommendations as to eligibility and service models for the expansion of the early intervention section, taking into consideration the identified needs, recommended best practices, resources and cost projections, service payment (e.g., continuum of payment options from no cost to families to partial payment by families), and procedural safeguards without adversely affecting the implementation of Part C program services;
    - (C) If recommended, additional information, including eligibility criteria and programmatic, financing, and evaluation requirements to implement an array of appropriate service models for children between three years and one day up to five years of age with developmental delays in natural and least restrictive environments;
    - (D) An implementation plan; and

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- (E) A timeline to begin services; and
- (4) Cease to exist upon the adjournment sine die of the 2008 regular session.
- (g) The University of Hawaii center on disability studies shall serve as the advisory committee facilitator and shall provide the necessary research, as well as conduct the needs assessment for the feasibility study.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$120,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the purposes of section 2 of this Act.

The sum appropriated shall be expended by the department of health for the purposes of section 2 of this Act.

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the State, such provision of this Act, or the application thereof to any person or circumstance, shall be invalid; provided that the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

## ACT 290

S.B. NO. 1792

A Bill for an Act Relating to the Hawaii Health Systems Corporation.

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

SECTION 1. The legislature finds that the State's community hospital system, Hawaii health systems corporation, is the fourth largest public hospital system in the nation. The Hawaii health system corporation's public health facilities provide essential safety-net hospital and long-term care services throughout the state and are often the only hospitals in many rural communities. Due to rapid changes taking place in the health care industry, the legislature acknowledges that the governing structure of our public hospital system must provide the appropriate flexibility and autonomy needed to compete and remain viable and respond to the needs of the specific communities served by furthering the development of centers of excellence in health care.

The current administrative arrangement places the public hospital system in a single statewide public agency, the Hawaii health systems corporation, which operates with some autonomy from the executive branch. This arrangement is the result of landmark legislation, Act 262, Session Laws of Hawaii 1996 (Act 262), after years of study. Act 262 was largely the result of the work of a task force established pursuant to Act 266, Session Laws of Hawaii 1994, charged with studying the establishment of an agency for community hospitals, then a division of the department of health. On December 20, 1994, the task force issued its report to the governor and the legislature entitled "The Preliminary Report of the Governor's Task Force on the Establishment of an Agency for Community Hospitals." Many of the recommendations of the task force were adopted by the legislature, resulting in

passage of Act 262, and the creation of the Hawaii health systems corporation in 1996.

One significant recommendation of the task force included the establishment of regional system boards of directors, along with the system-wide board. The task force stated that:

“The Hawaii Health Systems Corporation should administer the state facilities in a decentralized fashion, with the facilities to be grouped into five regions. Three regions should be formed for the facilities of Kauai, Oahu and Maui Counties respectively, and the Big Island should be divided into Eastern and Western regions. Each region should have an operating Board of Directors consisting of nine members. Regional Boards should be initially appointed by the Governor with the advice and consent of the Senate, and should subsequently be self-perpetuating (i.e., with future Board appointments made by the current Board).”

During the 1996 conference committee hearings on S.B. No. 2522, which ultimately became Act 262, the regional board concept was replaced with regional management advisory committees. The management advisory committees represent the communities in which the hospitals are located and meet with the management of the facilities and the executives of the Hawaii health systems corporation to give the communities a voice in the provision of these vital safety-net hospital services. However, the legislature finds that the Hawaii health systems corporation has developed strong administrative and clinical leadership in all five regions and is now ready for the implementation of the regional system boards recommendation. Further, the regional system board concept would enhance the ability of local communities and stakeholders to participate in the decision-making and operation of their own community hospitals. It is consistent with the original intent of the legislature in creating Hawaii health systems corporation that more than one system would be established, one for each region, as well as an umbrella system. While the management advisory committees have been diligent in representing the communities, their role has been solely advisory. Local community stakeholders, through independent regional system boards, are in the best position to make the critical decisions relating to the local operation of their community hospitals. Additionally, regional system boards would have the ability to address local needs and concerns in a more timely fashion.

The hospitals, through the Hawaii health systems corporation, should still engage in state-wide activities where a system-wide approach may provide economies of scale, efficiencies, and inter-regional collaboration and cooperation.

The purpose of this Act is to advance the State’s commitment to provide quality health care for the people of Hawaii, by moving forward on the original task force recommendation of community-based governance and establishing regional system boards for all regions, to be governed by a community-based regional system board of directors, and to provide the necessary authority for each region to accomplish the goal of community-based governance. The Hawaii health system corporation will continue to provide system-wide functions and governance with enhanced representation of regional system board members.

SECTION 2. Chapter 323F, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

“**§323F-A Regional system boards.** (a) There is hereby established a regional system board of directors to govern each of the five regional systems specified in section 323F-2, no later than January 1, 2008. The regional system

boards of directors shall carry out the duties and responsibilities as set forth in this chapter and as further delegated by the corporation.

(b) Upon its establishment, a regional system board shall assume custodial care of all financial assets, real property, including land, structures, and fixtures, or other physical assets, such as personal property, including furnishings, equipment, and inventory, of the corporation within its regional system. No sale or encumbrance of any such real property or such other financial assets, physical assets of the corporation shall be permitted without the mutual consent of the Hawaii health systems corporation board and the appropriate regional system board. No additional debts or liabilities or superior debts shall be added by the corporation to any regional system board that would negatively impact the holders of bond notes. Each regional system board shall be liable for any liabilities arising from financial assets, real or personal property in its custodial care.

(c) Each regional system shall be governed by a regional system board of directors to consist of not less than seven members and not more than fifteen members, as determined by the regional system board after the initial regional system board is established.

- (1) Each regional system board shall initially consist of twelve members to be appointed by the governor under section 26-34 or as provided in this section, as follows:
  - (A) Four members shall be appointed by the governor within thirty days of receipt of a qualified list of candidates as follows:
    - (i) Two members shall be chosen from a list of four individuals submitted by the speaker of the house of representatives within fifteen days of the effective date of this Act; provided that this list shall not include physicians; and
    - (ii) Two members shall be chosen from a list of four individuals submitted by the president of the senate within fifteen days of the effective date of this Act; provided that this list shall not include physicians;
  - (B) Four members shall be appointed by the governor within thirty days from a list of eight individuals nominated by the regional public health facility management advisory committee within fifteen days of the effective date of this Act. These individuals may be medical and health care providers and professionals, consumers, and knowledgeable individuals in other appropriate areas such as business, finance, and law; provided that these individuals shall not be physicians currently in active practice;
  - (C) Three physicians shall be appointed by the governor within thirty days from a list submitted within fifteen days of the effective date of this Act, of six physicians nominated by a majority vote of the medical staff of the public health facilities in the regional system present at a duly noticed meeting from a list of qualified candidates submitted by the medical executive committees in the regional system; and
  - (D) The corporation board chairperson or chairperson's designee shall serve as an ex officio, non-voting member of each regional system board;
- (2) One member of each regional system board nominated by the speaker of the house of representatives, the president of the senate, and medical executive committees in a regional system shall be appointed for a term of two years;

- (3) One member of each initial regional system board nominated by the regional public health facility management advisory committee for the regional system shall be appointed for a term of two years;
- (4) The remaining members of each initial regional system board and all members appointed thereafter shall be appointed for terms of three years; and
- (5) New regional system board members appointed to any regional system board after the initial regional system board shall be selected by a two-thirds affirmative vote of the existing regional system board members.

Except for the ex-officio members of each regional system board, all other members of a regional system board shall be residents of the region. Each regional system board shall elect its own chair.

(d) Each regional system board shall be responsible for local governance, operations, and administration of the delivery of services in its respective regional system as set forth in this chapter and as further delegated by the corporation. Each regional system board shall include medical and health care providers and professionals, consumers, and knowledgeable individuals in other appropriate areas, such as business, finance, and law; provided that no more than three members of the regional system board shall be physicians. Each regional system board shall be as balanced and representative of the community stakeholders as possible.

(e) Any member of a regional system board may be removed for cause by the governor or for cause by vote of a two-thirds majority of the regional system board's voting members then in office. For purposes of this section, "cause" shall include without limitation:

- (1) Malfeasance in office;
- (2) Persistent failure to attend regularly called meetings;
- (3) Sentencing for conviction of a felony, to the extent allowed by section 831-3.1; or
- (4) Any other cause that may render a member incapable of discharging or unfit to discharge the duties required under this chapter.

**§323F-B Regional chief executive officer; exempt position.** (a) Upon establishment, and until December 31, 2008, a regional system board may appoint a regional chief executive officer and regional chief financial officer whose salary shall be set by the corresponding regional system board and may discharge a regional chief executive officer or regional chief financial officer for cause, consistent with subsection (b); provided that the position shall be exempt from chapter 76 and section 26-35(a)(4). Effective January 1, 2009, the hiring and firing of the regional chief executive officers shall be subject to approval of both the regional system board and the corporation board. Each regional chief executive officer may also appoint, as necessary, other personnel, exempt from chapters 76 and 89, to work directly for the regional chief executive officer for the regional system and for the corresponding regional system board.

(b) Any regional system board or its designee may discharge its exempt personnel with or without cause; provided that removal without cause shall not prejudice any contract rights of personnel; and provided further that the discharge of a regional chief executive officer shall be limited to the reasons outlined in section 323F-A(e) up to December 31, 2008. Effective January 1, 2009, regional chief executive officers and other exempt personnel shall be subject to discipline, including discharge, in accordance with duly executed contracts, laws governing exempt personnel of the State, and regional system policies adopted in accordance with corporate policies.

(c) Each regional chief executive officer or their designees may appoint, exempt from chapters 76 and 89, hospital administrators, assistant administrators,

directors of nursing, medical directors, and staff physicians, to facilitate the management of facilities within the regional system.

(d) Hiring, firing, compensation packages, and other personnel actions with respect to employees not covered by chapters 76 and 89 shall be governed by policies adopted by each regional system board. These policies and guidelines shall be consistent with policies and guidelines adopted by the corporation board after consultation with the regional system boards.

**§323F-C Regional system boards; delegated authority.** If the Hawaii health systems corporation board is unable to act on important transactions in as timely a manner as the chairperson of the corporation board deems reasonable, the chairperson of the corporation board may further delegate authority to the regional system boards to take action on specific matters.”

SECTION 3. Section 26-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Nothing in this section shall be construed as in any manner affecting the civil service laws applicable to the several counties, the judiciary, or the Hawaii health systems corporation[;] or its regional system boards, which shall remain the same as if this chapter had not been enacted.”

SECTION 4. Section 26-35.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) For purposes of this section, “member” means any person who is appointed, in accordance with the law, to serve on a temporary or permanent state board, including members of the local school board of any charter school established under chapter 302B, council, authority, committee, or commission, established by law or elected to the board of education, or the board of trustees of the employees’ retirement system under section 88-24[;], or the corporation board of the Hawaii health systems corporation under section 323F-3 and its regional system boards under section 323F-A; provided that “member” shall not include any person elected to serve on a board or commission in accordance with chapter 11 other than a person elected to serve on the board of education.”

2. By amending subsection (e) to read:

“(e) The attorney general, or in the case of the board of regents of the University of Hawaii, its university general counsel, or in the case of the board of directors of the Hawaii health systems corporation under section 323F-3 or its regional system boards under chapter<sup>1</sup> 323F-A, the attorneys retained by the board of directors of the Hawaii health systems corporation or its regional system boards under section 323F-9, shall represent and defend a member in any civil action for which immunity is conferred under subsection (b), or when the attorney general, or, if the action involves a member of the board of regents, the university general counsel, or, if the action involves a member of the board of directors of the Hawaii health systems corporation or its regional system boards, the attorneys retained by the board of directors of the Hawaii health systems corporation or its regional system boards, determines that indemnification is available to the member under subsection (c), and the member against whom the action is brought has submitted a written request for representation and has provided the attorney general, [ø] the university general counsel in the case of an action involving a member of the board of regents, or the attorneys retained by the board of directors of the Hawaii health systems corporation or its regional system boards in the case of an action involving a member

of the board of directors of the Hawaii health systems corporation or its regional system boards with all process or complaint served upon the member within a reasonable period of time, but not more than five days after being served with the process or complaint. The attorney general, [ø] the university general counsel, or an attorney retained by the board of directors of the Hawaii health systems corporation or its regional system boards may terminate the representation and defense of the member at any time if, after representation and defense is accepted, the attorney general, [ø] the university general counsel, or an attorney retained by the board of directors of the Hawaii health systems corporation or one of its regional system boards determines that indemnification would not be available to the member under subsection (c).”

SECTION 5. Section 28-8.3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) No department of the State other than the attorney general may employ or retain any attorney, by contract or otherwise, for the purpose of representing the State or the 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 to the employment or retention of attorneys:

- (1) By the public utilities commission, the labor and industrial relations appeals board, and the Hawaii labor relations board;
- (2) By any court or judicial or legislative office of the State;
- (3) By the legislative reference bureau;
- (4) By any compilation commission that may be constituted from time to time;
- (5) By the real estate commission for any action involving the real estate recovery fund;
- (6) By the contractors license board for any action involving the contractors recovery fund;
- (7) By the trustees for any action involving the travel agency recovery fund;
- (8) By the office of Hawaiian affairs;
- (9) By the department of commerce and consumer affairs for the enforcement of violations of chapters 480 and 485;
- (10) As grand jury counsel;
- (11) By the Hawaiian home lands trust individual claims review panel;
- (12) By the Hawaii health systems corporation, or its regional system boards, or any of [its] their facilities;
- (13) By the auditor;
- (14) By the office of ombudsman;
- (15) By the insurance division;
- (16) By the University of Hawaii;
- (17) By the Kahoolawe island reserve commission;
- (18) By the division of consumer advocacy;
- (19) By the office of elections;
- (20) By the campaign spending commission;
- (21) By the Hawaii tourism authority, as provided in section 201B-2.5; or
- (22) By a department, in the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines, to employ or retain an attorney for a department; provided that the governor thereupon waives the provision of this section.”

2. By amending subsection (c) to read:

“(c) Every attorney employed by any department on a full-time basis, except an attorney employed by the public utilities commission, the labor and industrial relations appeals board, the Hawaii labor relations board, the office of Hawaiian affairs, the Hawaii health systems corporation[;] or its regional system boards, the department of commerce and consumer affairs in prosecution of consumer complaints, insurance division, the division of consumer advocacy, the University of Hawaii, the Hawaii tourism authority as provided in section 201B-2.5, the Hawaiian home lands trust individual claims review panel, or as grand jury counsel, shall be a deputy attorney general.”

SECTION 6. Section 29-24, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established in the state treasury an interagency federal revenue maximization revolving fund, into which shall be deposited all funds and proceeds collected from the federal government and third-party [payers] payers for costs not previously claimed by the State, with the exception of proceeds collected for services provided by the Hawaii health systems corporation[;] or its regional system boards, for reimbursement of federally-funded state programs. For purposes of this chapter, federally-funded state programs include but shall not be limited to those federally-funded programs within the departments of human services and health, and shall not include the federally-funded program within the department of education as provided in [section] 302A-1406. Expenditures and transfers from the fund shall be made by the comptroller in proportional allocations established by the comptroller and the director of finance. Transfers shall be made to the department claiming the reimbursement for expenses incurred related to federal fund reimbursement claims and to the general fund of the State. Moneys in the fund may be expended for consultant services rendered under subsection (b).”

SECTION 7. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

“**§36-27 Transfers from special funds for central service expenses.** Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, 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:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;
- (11) Unemployment compensation fund established under section 383-121;
- (12) Hawaii hurricane relief fund established under chapter 431P;
- (13) Hawaii health systems corporation special funds[;] and the subaccounts of its regional system boards;
- (14) Tourism special fund established under section 201B-11;
- (15) Universal service fund established under chapter 269;

- (16) Integrated tax information management systems special fund under section 231-3.2;
- (17) Emergency and budget reserve fund under section 328L-3;
- (18) Public schools special fees and charges fund under section 302A-1130(f);
- (19) Sport fish special fund under section 187A-9.5;
- (20) Neurotrauma special fund under section 321H-4;
- (21) Deposit beverage container deposit special fund under section 342G-104;
- (22) Glass advance disposal fee special fund established by section 342G-82;
- (23) Center for nursing special fund under section [H]304A-2163[;];
- (24) Passenger facility charge special fund established by section 261-5.5;
- (25) Solicitation of funds for charitable purposes special fund established by section 467B-15;
- (26) Land conservation fund established by section 173A-5;
- (27) Court interpreting services revolving fund under section 607-1.5;
- (28) Trauma system special fund under section 321-22.5;
- (29) Hawaii cancer research special fund;
- (30) Community health centers special fund; and
- (31) Emergency medical services special fund[;];

shall deduct five per cent of all receipts of all other special 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. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.[;]”

SECTION 8. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) Each special fund, except the:
- (1) Transportation use special fund established by section 261D-1;
  - (2) Special out-of-school time instructional program fund under section 302A-1310;
  - (3) School cafeteria special funds of the department of education;
  - (4) Special funds of the University of Hawaii;
  - (5) State educational facilities improvement special fund;
  - (6) Special funds established by section 206E-6;
  - (7) Aloha Tower fund created by section 206J-17;
  - (8) Funds of the employees’ retirement system created by section 88-109;
  - (9) Unemployment compensation fund established under section 383-121;
  - (10) Hawaii hurricane relief fund established under chapter 431P;
  - (11) Convention center enterprise special fund established under section 201B-8;
  - (12) Hawaii health systems corporation special funds[;] and the subaccounts of its regional system boards;
  - (13) Tourism special fund established under section 201B-11;
  - (14) Universal service fund established under chapter 269;
  - (15) Integrated tax information management systems special fund under section 231-3.2;
  - (16) Emergency and budget reserve fund under section 328L-3;

- (17) Public schools special fees and charges fund under section 302A-1130(f);
- (18) Sport fish special fund under section 187A-9.5;
- (19) Neurotrauma special fund under section 321H-4;
- (20) Center for nursing special fund under section [H]304A-2163[H];
- (21) Passenger facility charge special fund established by section 261-5.5;
- (22) Court interpreting services revolving fund under section 607-1.5;
- (23) Trauma system special fund under section 321-22.5;
- (24) Hawaii cancer research special fund;
- (25) Community health centers special fund; and
- (26) Emergency medical services special fund[H];

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.[H]”

SECTION 9. Section 37-53, Hawaii Revised Statutes, is amended to read as follows:

“**§37-53 Transfer of special funds.** At any time during a fiscal year, notwithstanding any other law to the contrary, any department may, with the approval of the governor or the director of finance if so delegated by the governor, transfer from any special fund relating to such department to the general revenues of the State all or any portion of moneys determined to be in excess of fiscal year requirements for such special fund, except for special funds under the control of the department of transportation relating to highways, airports, transportation use, and harbors activities, special funds under the control of the Hawaii health systems corporation[,] or subaccounts under the control of its regional system boards, and special funds of the University of Hawaii. At any time the department of transportation, with the approval of the governor or the director of finance if so delegated by the governor, may transfer from any special fund under the control of the department of transportation, or from any account within any such special fund, to the general revenues of the State or to any other special fund under the control of the department of transportation all or any portion of moneys determined to be in excess of requirements for the ensuing twelve months determined as prescribed by rules adopted pursuant to chapter 91; provided that no such transfer shall be made which would cause a violation of federal law or federal grant agreements.”

SECTION 10. Section 37-74, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization; provided that:

- (1) Authorized transfers or changes, when made, shall be reported to the legislature;
- (2) Except with respect to appropriations to fund financing agreements under chapter 37D, the University of Hawaii shall have the flexibility to transfer appropriated funds and positions for the operating cost category among programs, among cost elements in a program, and between quarters, as applicable; except with respect to appropriations to fund financing agreements under chapter 37D, the department of education shall have the flexibility to transfer appropriated funds and positions for the operating cost category among programs and among cost elements in a program, and between quarters, as applicable; and the Hawaii health systems corporation and its regional system boards shall have

the flexibility to transfer special fund appropriations among [~~community hospitals~~] regional system hospital facilities as applicable[;] and as mutually agreed to by the corporation and the respective regional system board; provided that the Hawaii health systems corporation and the regional system boards shall maintain the integrity and services of each individual [facility] regional system and shall not transfer appropriations out of any [facility] regional system that would result in a reduction of services offered by the [facility<sup>1</sup>] regional system, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources; and

- (3) The university and the department of education 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.’’

SECTION 11. Section 37D-1, Hawaii Revised Statutes, is amended by amending the definition of ‘‘agency’’ to read as follows:

‘‘‘Agency’’ or ‘‘participating agency’’ means the judiciary, any executive department, any independent commission, any board, any authority, any bureau, any office, any other establishment of the State (except the legislature and its agencies), or any public corporation that is supported in whole or in part by state funds, or any agent thereof, authorized by law to expend available moneys; provided that the Hawaii health systems corporation and its regional system boards shall not be governed by this chapter for any financing agreement unless it elects to [~~do so~~] be.’’

SECTION 12. Section 37D-2, Hawaii Revised Statutes, is amended to read as follows:

‘‘**§37D-2 Financing agreements.** (a) There is hereby established and authorized the financing agreement program of the State. Any agency desiring to acquire or improve projects through the financing agreement program established and authorized by this chapter shall submit a written request to the department providing such information as the department shall require. Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation[;] and its regional system boards, only with the approval by the attorney general as to form and legality and upon the written request of one or more participating agencies may the department enter into a financing agreement in accordance with this chapter, except that the board of regents of the University of Hawaii may enter into a financing agreement in accordance with this chapter without the approval of the director and of the attorney general as to form and legality if the principal amount of the financing agreement does not exceed \$3,000,000. A financing agreement may be entered into by the department on behalf of one or more participating agencies at any time (before or after commencement or completion of any improvements or acquisitions to be financed) and shall be upon terms and conditions the department finds to be advantageous. In each case of a written request by the judiciary to participate in the financing agreement program, the department shall implement the request; provided that the related financing agreement shall be upon terms and conditions the department finds to be advantageous. Any financing agreement entered into by the department without the approval required by this section shall be void and of no effect. A single financing agreement may finance a single item or multiple items of

property to be used by multiple agencies or may finance a single item or multiple items of property to be used by a single agency. The department shall bill any participating agency that benefits from property acquired with the proceeds of a financing agreement for such participating [agency's] agencies pro rata share of:

- (1) The department's costs of administration of the financing agreement program; and
- (2) The financing costs, including the principal and interest components of the financing agreement and insurance premiums;

on a monthly or other periodic basis, and may deposit payments received in connection with the billings with a trustee as security for a financing agreement. Any participating agency receiving such a bill shall be authorized and shall pay the amounts billed from the available moneys.

(b) Financing agreements shall be subject to the following limitations:

- (1) Amounts payable by a participating agency to or upon the direction of the department in respect to a project and by the department under a financing agreement shall be limited to available moneys. In no circumstance shall the department be obligated to pay amounts due under a financing agreement from any source other than available moneys. If, by reason of insufficient available moneys or other reason, amounts due under a financing agreement are not paid when due, the lender may exercise any property right that the department has granted to it in the financing agreement, against the property that was purchased with the proceeds of the financing agreement, and apply the amounts so received toward payments scheduled to be made by the department under the financing agreement;
- (2) No property rights may be granted in property unless the property is being acquired, is to be substantially improved, is to be refinanced with the proceeds of a financing agreement, or is land on which the property is located;
- (3) Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation and its regional system boards, and as otherwise provided in this section with respect to the University of Hawaii, and except as provided in chapter 323F as to the Hawaii health systems corporation[,] and its regional system boards, an agency shall not have the power to enter into a financing agreement, except through the department as authorized by this chapter, and nothing in this chapter shall be construed to authorize the sale, lease, or other disposition of property owned by an agency;
- (4) Except as otherwise provided in this section with respect to the University of Hawaii, the sale, assignment, or other disposition of any financing agreements, including certificates of participation relating thereto, shall require the approval of the director; and
- (5) The department shall not be subject to chapter 103D and any and all other requirements of law for competitive bidding for financing agreements."

SECTION 13. Section 41D-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any provision in this section to the contrary notwithstanding, the University of Hawaii (as to casualty insurance risks only), the Research Corporation of the University of Hawaii (as to casualty insurance risks only), [and] the public health facilities of the department of health (with respect to medical malpractice

risks only), and the Hawaii health systems corporation and its regional system boards shall be exempt from the requirements of this chapter.”

SECTION 14. Section 102-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The bidding requirements of subsection (a) shall not apply to concessions or space on public property set aside for the following purposes:

- (1) For operation of ground transportation services and parking lot operations at airports, except for motor vehicle rental operations under chapter 437D;
- (2) For lei vendors;
- (3) For airline and aircraft operations;
- (4) For automatic teller machines and vending machines, except vending machines located at public schools operated by blind or visually handicapped persons in accordance with section 302A-412;
- (5) For operation of concessions set aside without any charge;
- (6) For operation of concessions by handicapped or blind persons; except concessions operated in the public schools by blind or visually handicapped persons in accordance with section 302A-412;
- (7) For operation of concessions on permits revocable on notice of thirty days or less; provided that no such permits shall be issued for more than a one year period;
- (8) For operation of concessions or concession spaces for a beach service association dedicated to the preservation of the Hawaii beach boy tradition, incorporated as a nonprofit corporation in accordance with state law, and whose members are appropriately licensed or certified as required by law;
- (9) For operation of concessions at county zoos, botanic gardens, or other county parks which are environmentally, culturally, historically, or operationally unique and are supported, by nonprofit corporations incorporated in accordance with state law solely for purposes of supporting county aims and goals of the zoo, botanic garden, or other county park, and operating under agreement with the appropriate agency solely for such purposes, aims, and goals;
- (10) For operation of concessions that furnish goods or services for which there is only one source, as determined by the head of the awarding government agency in writing that shall be included in the contract file; [and]
- (11) For operation of concession or concession spaces at the convention center under chapter 201B[-]; and
- (12) For any of the operations of the Hawaii health systems corporation and its regional system boards.”

SECTION 15. Section 103-53, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) This section shall not apply to:

- (1) Any procurement of less than \$25,000 or that is considered a small purchase under section 103D-305 and any state or county department contract of less than \$25,000;
- (2) Emergency purchases for the procurement of goods, services, or construction under section 103D-307, disaster relief under chapter 127, or a civil defense emergency under chapter 128;

- (3) Grants and subsidies disbursed by a state agency pursuant to chapter 42F or in accordance with standards provided by law as required by article VII, section 4, of the State Constitution, or made by the counties pursuant to their respective charters or ordinances;
- (4) Contracts or agreements between government agencies;
- (5) Contracts or agreements to disburse funds:
  - (A) To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, and reimbursements;
  - (B) To satisfy obligations required to be paid by law, including fees, judgments, settlements, and other payments for resolving claims;
  - (C) To make refunds or return funds held by the State or county as trustee, custodian, or bailee;
  - (D) For entitlement programs, including public assistance, unemployment, and workers' compensation programs, established by state or federal law;
  - (E) For deposit, investment, or safekeeping, including sums to pay expenses related to their deposit investment, or safekeeping;
  - (F) For loans under government-administered loan programs; or
  - (G) To make periodic, recurring payments for utility services; [and]
- (6) Rent for the use or occupation of the premises and facilities at Aloha Stadium, the convention center, or any other state or county large spectator events facility[-]; and
- (7) Contracts or agreements of the Hawaii health systems corporation and its regional system boards."

SECTION 16. Section 103D-102, Hawaii Revised Statutes, is amended to read as follows:

**"§103D-102 Application of this chapter.** (a) This chapter shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings, any of which the State receives or is owed; in-kind benefits; or forbearance; provided that nothing in this chapter or rules adopted hereunder shall prevent any governmental body from complying with the terms and conditions of any other grant, gift, bequest, or cooperative agreement.

(b) Notwithstanding subsection (a), this chapter shall not apply to contracts by governmental bodies:

- (1) Solicited or entered into before July 1, 1994, unless the parties agree to its application to a contract solicited or entered into prior to July 1, 1994;
- (2) To disburse funds, irrespective of their source:
  - (A) For grants or subsidies as those terms are defined in section 42F-101, made by the State in accordance with standards provided by law as required by article VII, section 4, of the State Constitution; or by the counties pursuant to their respective charters or ordinances;
  - (B) To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, or reimbursements;
  - (C) To satisfy obligations that the State is required to pay by law, including paying fees, permanent settlements, subsidies, or other claims, making refunds, and returning funds held by the State as trustee, custodian, or bailee;

- (D) For entitlement programs, including public assistance, unemployment, and workers' compensation programs, established by state or federal law;
  - (E) For dues and fees of organizations of which the State or its officers and employees are members, including the National Association of Governors, the National Association of State and County Governments, and the Multi-State Tax Commission;
  - (F) For deposit, investment, or safekeeping, including expenses related to their deposit, investment, or safekeeping;
  - (G) To governmental bodies of the State;
  - (H) As loans, under loan programs administered by a governmental body; and
  - (I) For contracts awarded in accordance with chapter 103F.
- (3) To procure goods, services, or construction from a governmental body other than the University of Hawaii bookstores, from the federal government, or from another state or its political subdivision;
- (4) To procure the following goods or services which are available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State:
- (A) Services of 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;
  - (B) Works of art for museum or public display;
  - (C) Research and reference materials including books, maps, periodicals, and pamphlets, which are published in print, video, audio, magnetic, or electronic form;
  - (D) Meats and foodstuffs for the Kalaupapa settlement;
  - (E) Opponents for athletic contests;
  - (F) Utility services whose rates or prices are fixed by regulatory processes or agencies;
  - (G) Performances, including entertainment, speeches, and cultural and artistic presentations;
  - (H) Goods and services for commercial resale by the State;
  - (I) Services of printers, rating agencies, support facilities, fiscal and paying agents, and registrars for the issuance and sale of the State's or counties' bonds;
  - (J) Services of attorneys employed or retained to advise, represent, or provide any other legal service to the State or any of its agencies, on matters arising under laws of another state or foreign country, or in an action brought in another state, federal, or foreign jurisdiction, when substantially all legal services are expected to be performed outside this State;
  - (K) Financing agreements under chapter 37D; and
  - (L) Any other goods or services which the policy board determines by rules or the chief procurement officer determines in writing is available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State; and
- (5) Which are specific procurements expressly exempt from any or all of the requirements of this chapter by:
- (A) References in state or federal law to provisions of this chapter or a section of this chapter, or references to a particular requirement of this chapter; and

- (B) Trade agreements, including the Uruguay Round General Agreement on Tariffs and Trade (GATT) which require certain non-construction and non-software development procurements by the comptroller to be conducted in accordance with its terms.

(c) Notwithstanding subsection (a), this chapter shall not apply to contracts made by any regional system board of the Hawaii health systems corporation.

~~(e)~~ (d) Governmental bodies making procurements which are exempt from this chapter are nevertheless encouraged to adopt and use provisions of this chapter and its implementing rules as appropriate; provided that the use of one or more provisions shall not constitute a waiver of the exemption conferred and subject the procurement or the governmental body to any other provision of this chapter.

SECTION 17. Section 323F-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Regional system board” means a community-based governing board of directors of a regional system of the corporation.”

SECTION 18. Section 323F-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The corporate organization shall be divided into five [regions,] regional systems, as follows:

- (1) The [city and county of Honolulu,] Oahu regional health care system;
- (2) The [county of Kauai,] Kauai regional health care system;
- (3) The [county of Maui, except the county of Kalawao,] Maui regional health care system;
- (4) The [eastern section of the county of Hawaii,] east Hawaii regional health care system, comprising the Puna district, north Hilo district, south Hilo district, Hamakua district, and Kau district; and
- (5) The [western section of the county of Hawaii,] west Hawaii regional health care system, comprising the north Kohala district, south Kohala district, north Kona district, and south Kona district;

and shall be identified as [regions] regional systems I, II, III, IV, and V, respectively.”

SECTION 19. Section 323F-3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The corporation shall be governed by a [thirteen-member] fifteen-member board of directors [which] that shall carry out the duties and responsibilities of the corporation.

~~(b) [Ten members of the corporation board shall be appointed by the governor]~~ Twelve members of the corporation board shall be appointed as follows:

- (1) [One member from region I who resides] Two members from regional system I who reside in the city and county of Honolulu[;] shall be appointed by the governor from a list consisting of four individuals, two individuals submitted by the speaker of the house of representatives and two individuals submitted by the president of the senate within fifteen days of the effective date of this Act; provided that this list shall not include physicians;
- (2) [One member from region II who resides] Two members from regional system II who reside in the county of Kauai[;] shall be appointed by the governor from a list consisting of four individuals, two individuals submitted by the speaker of the house of representatives and two

individuals submitted by the president of the senate within fifteen days of the effective date of this Act; provided that this list shall not include physicians;

- (3) [One member from region III who resides] Two members from regional system III who reside in the county of Maui[;] shall be appointed by the governor from a list consisting of four individuals, two individuals submitted by the speaker of the house of representatives and two individuals submitted by the president of the senate within fifteen days of the effective date of this Act; provided that this list shall not include physicians;
- (4) [One member from region IV who resides] Two members from regional system IV who reside in the eastern section of the county of Hawaii[;] shall be appointed by the governor from a list consisting of four individuals, two individuals submitted by the speaker of the house of representatives and two individuals submitted by the president of the senate within fifteen days of the effective date of this Act; provided that this list shall not include physicians;
- (5) [One member from region V who resides] Two members from regional system V who reside in the western section of the county of Hawaii[;] shall be appointed by the governor from a list consisting of four individuals, two individuals submitted by the speaker of the house of representatives and two individuals submitted by the president of the senate within fifteen days of the effective date of this Act; provided that this list shall not include physicians;
- (6) [One member from region II who resides in the county of Kauai or from region III who resides in the district of Hana or on the island of Lanai; provided that in no event shall the member be appointed from the same region for two consecutive terms; and] Two additional members who reside in the State shall be appointed by the governor.
- [(7) Four at-large members who reside in the State.

The eleventh member shall be the chairperson of the executive public health facility management advisory committee, who shall serve as an ex officio, voting member.

The twelfth member,] The thirteenth and fourteenth members, who shall serve as [a] voting [member,] members, shall be [a physician] physicians with active medical staff privileges at one of the corporation's public health facilities. The physician [member] members shall each serve a term of two years. The initial physician [member] members shall be from [region] regional system II, and subsequent physician members shall come from [regions] regional systems IV, III, and V respectively. The physician member [position] positions shall continue to rotate in this order. The physician [member] members shall be appointed to the corporation board by a [simple majority vote of the members of the executive public health facility management advisory committee] two-thirds majority vote of the corporation board from a list of qualified nominees submitted by the public health facility management advisory [committee for the region from which the physician member is to be chosen.] committees or by any regional system board. If for any reason a physician member is unable to serve a full term, the remainder of that term shall be filled by a physician from the same [region.] regional system.

The [thirteenth] fifteenth member shall be the director of health or the director's designee, who shall serve as an ex officio, voting member.

Appointments to the corporation board, with the exception of the chairperson of the executive public health facility management advisory committee and the regional physician member, shall be made by the governor, subject to confirmation by the senate pursuant to section 26-34. [Prior to the transfer date, the public health

~~facility management advisory committees appointed pursuant to section 323-66 for each county may recommend names to the governor for each position on the corporation board designated for<sup>1</sup> region which corresponds to its county. After the transfer date, the public health facility management advisory committees appointed pursuant to section 323F-10 for each region may make such recommendation<sup>1</sup> to the governor. The appointed board members shall serve for a term of four years; provided that upon the initial appointment of the first ten members:~~

- ~~(1) Two at-large members shall be appointed for a term of two years;~~
- ~~(2) Three at-large shall be appointed for a term of three years; and~~
- ~~(3) Five regional members shall be appointed for a term of four years.]~~

The appointed board members shall serve for a term of four years; provided that the first member appointed from each regional system shall be appointed for a term of two years.

Any vacancy shall be filled in the same manner provided for the original appointments. The corporation board shall elect its own chair from among its members. Appointments to the corporation board shall be as representative as possible of the system's stakeholders as outlined in this subsection."

SECTION 20. Section 323F-4, Hawaii Revised Statutes, is amended to read as follows:

~~“§323F-4 Board meetings. (a) [The corporation board shall meet no fewer than four times a year. All meetings of the corporation board shall be subject to chapter 92, except that in addition to matters exempted pursuant to law, the corporation board may elect to hold an executive meeting for the consideration of any matters set forth in section 323F-6.] The corporation board and each regional system board shall be exempt from part I of chapter 92 and shall meet no fewer than four times a year; provided that the regional system boards and the corporation board shall meet together at least once a year. Each regional board shall meet at least six times each year; provided that two of these meetings shall be public community meetings for the purpose of informing the community and taking comment on the regional system's performance if these meetings are in addition to the four board meetings. The public community meetings shall be advertised in a newspaper of general circulation in the regional system at least two weeks in advance.~~

(b) All business of the corporation board and each regional system board shall be conducted at a regular or special meeting at which a quorum is present, consisting of at least a majority of the directors then in office. The corporation board and each regional system board shall adopt procedural rules for meetings, not subject to chapter 91, that shall include provisions for meetings via electronic and telephonic communications and other methods that allow the boards to conduct business in a timely and efficient manner. Any action of the corporation board or each regional system board shall require the affirmative vote of a majority of those present and voting at the meeting; except that a vote of two-thirds of the [members] entire membership of the [corporation] respective board then in office shall be required for any of the following actions:

- (1) Removal by the corporation board or respective regional system board of one of its members[; with the exception of the eleventh and twelfth members set forth in section 323F-3, who may only be removed pursuant to sections 323F-10 and 323F-10.5];
- (2) Amendment by the corporation or a regional system board of its bylaws;
- (3) Hiring or removing the chief executive officer of the corporation[; and] or regional chief executive officer;
- (4) Filling of vacancies on a board; and

[(4)] (5) Any other actions as provided by the corporation or regional system board bylaws.”

SECTION 21. Section 323F-5, Hawaii Revised Statutes, is amended to read as follows:

“[E]§323F-5[F] **Disclosure of interests.** All corporation and regional system board members and employees of the corporation shall be subject to chapter 84.”

SECTION 22. Section 323F-6, Hawaii Revised Statutes, is amended to read as follows:

“[E]§323F-6[F] **Records.** The corporation and each regional system board shall be subject to the requirements of chapter 92F, except that the following categories of government records shall not be required to be disclosed:

- (1) Applications for credentials or staff privileges at any of the corporation’s medical facilities, records from peer review proceedings, and medical records; and
- (2) Marketing strategies, strategic plans, evaluations, assessments, negotiations, or rates and charges, the disclosure of which would raise the cost of procurement or give a manifestly unfair advantage to any competitor or to any person or entity seeking to do business or proposing to enter into an agreement with a regional system board, the corporation, or any of its facilities.

Any person denied access to any such government records shall have available the remedies specified in sections 92F-15 and 92F-15.5. Government records protected from disclosure by this section shall be subject to the interagency disclosure provisions of section 92F-19. Section 624-25.5 shall apply to this part notwithstanding anything to the contrary contained in this section.”

SECTION 23. Section 323F-7, Hawaii Revised Statutes, is amended to read as follows:

“§323F-7 **Duties and powers of the corporation [-] and regional system boards.** (a) Notwithstanding any other law to the contrary[-] and unless otherwise specified, only those duties and powers related to corporation-wide matters, including but not limited to corporation-wide budgeting, personnel policies, procurement policies, fiscal policies, accounting policies, policies related to affiliations, joint ventures and contracts, regulatory compliance, risk management, continuing medical education programs, strategic planning, and capital planning, including the issuance of revenue bonds in any amount, shall be carried out by the corporation [shall have and exercise the following duties] board in collaboration with the regional system boards. Duties and powers[:] related to the operation of facilities within each regional system, including but not limited to regional system and facility budgeting, employment and removal of regional system and facility personnel, purchasing, regional system strategic and capital planning, organization, quality assurance, improvement and reporting, credentialing of medical staff, and the issuance of revenue bonds in any amount with corporation board approval, shall be carried out by the regional system boards, either directly or by delegation to regional and facility administration. Unless otherwise prohibited, the duties and powers granted to the corporation board may be delegated to the regional system boards.

(b) Duties and powers exercised by the regional system boards under this chapter or delegated to the regional system boards by the corporation board shall be consistent with corporation-wide policies. Wherever appropriate, corporation-wide

policies shall take into account differences among regional systems and among types of facilities, particularly acute care, critical access, and long-term care facilities within the system.

New corporation-wide policies, and major changes to existing policies other than those changes mandated by legal or regulatory requirements, shall be developed by the corporation board after consultation with a policies committee. The policies committee shall be made up of representatives of the corporation board and each regional system board or designees of each board. The corporation board shall have two representatives on this committee. The corporation board shall review and consider approval of the policies within thirty days of transmittal by the policies committee or at the next board meeting; provided that, if the policies committee fails to take action within thirty days of receiving the proposed policy, the corporation board may consider and adopt or reject or revise the policy. The regional system boards and corporation board, as needed, may submit a request to the committee to alter corporation-wide policies along with detailed justification for the request. The regional system boards and the corporation board shall collaboratively establish a procedure to further implement this section.

(c) Notwithstanding any other law to the contrary, the corporation and any of the regional system boards shall exercise the following duties and powers:

- (1) Developing [its own] corporation-wide policies, procedures, and rules necessary or appropriate to plan, operate, manage, and control the system of public health facilities and services without regard to chapter 91; provided that each regional system board shall be responsible for its own policies, procedures, and rules necessary or appropriate to plan, operate, manage, and control the public health facilities within its own regional system consistent with corporate policies;
- (2) Evaluating the need for additional health facilities and services; provided that each regional system board shall be responsible for the evaluation within its own regional system;
- (3) Entering into and performing any contracts, leases, cooperative agreements, partnerships, or other transactions whatsoever that may be necessary or appropriate in the performance of its purposes and responsibilities, and on terms [it] the corporation, or regional system boards, may deem appropriate, with either:
  - (A) Any agency or instrumentality of the United States, or with any state, territory, or possession, or with any subdivision thereof; or
  - (B) Any person, firm, association, partnership, or corporation, whether operated on a for-profit or not-for-profit basis;provided that the transaction furthers the public interest; and provided further that if any dispute arises between any contract, lease, cooperative agreement, partnership, or other transaction entered into by the corporation and a regional system board with regard to matters solely within that regional system, after July 1, 2007, the contract, lease, cooperative agreement, partnership, or other transaction entered into by the regional system board shall prevail; and provided further that such agreements are consistent with corporation policies;
- (4) Conducting activities and entering into business relationships as the corporation board, or any regional system boards, deems necessary or appropriate, including but not limited to:
  - (A) Creating nonprofit corporations, including but not limited to charitable fund-raising foundations, to be controlled wholly by the corporation, any regional system board, or jointly with others;
  - (B) Establishing, subscribing to, and owning stock in business corporations individually or jointly with others; and

- (C) Entering into partnerships and other joint venture arrangements, or participating in alliances, purchasing consortia, health insurance pools, or other cooperative arrangements, with any public or private entity; provided that any corporation, venture, or relationship entered into under this section furthers the public interest; provided further that this paragraph shall not be construed to authorize the corporation or a regional system board to abrogate any responsibility or obligation under paragraph (15); provided that each regional system board shall be responsible for conducting the activities under this paragraph in its own regional system consistent with policies established by the corporation board;
- (5) Participating in and developing prepaid health care service and insurance programs and other alternative health care delivery programs, including programs involving the acceptance of capitated payments or premiums that include the assumption of financial and actuarial risk; provided that each regional system board shall be responsible for conducting the activities under this paragraph in its own regional system consistent with policies established by the corporation board;
- (6) Executing, in accordance with all applicable bylaws, rules, and laws, all instruments necessary or appropriate in the exercise of any powers of the [corporation's powers;] corporation or regional system boards;
- (7) Preparing and executing all [corporation] corporation-wide budgets, policies, and procedures[;] or any regional system budgets, policies, and procedures; provided that the regional system boards shall submit their regional and facility budgets to the corporation to be consolidated into a corporation-wide budget for purposes of corporation-wide planning and appropriation requests. Regional system and facility budgets shall be received by the corporation and shall be included in the corporation-wide budget upon submittal to the corporation;
- (8) Setting rates and charges for all services provided by the corporation without regard to chapter 91; provided that the duty and power of the corporation board shall be limited to approving the rates and charges developed by the regional system boards for the regional system's facilities and services. Rates and charges may vary among regional systems and facilities and may be consolidated with the rates of other regional systems into one charge master. Third-party payer contracts may be negotiated at the corporation-wide level with input from the regional systems, taking into consideration the rates set by the regional system boards. For purposes of securing revenue bonds, the corporation or regional system board may covenant to set, and if necessary increase, rates and charges as needed to pay debt service and related obligations plus a coverage factor;
- (9) Developing a corporation-wide hospital system that is subject to chapters 76 and 89; provided that employment of regional system and facility personnel shall be the responsibility of the regional system boards pursuant to corporation-wide policies and procedures, applicable laws, rules, regulations, and collective bargaining agreements;
- (10) Developing the corporation's corporation-wide capital and strategic plans[;] or any regional system board's capital and strategic plans; provided that each regional system board shall be responsible for development of capital and strategic plans in its own regional system that shall be consistent with, and incorporated into, the overall corporation-wide plans; and provided further that the corporation and each regional system board shall be entitled to undertake the acquisi-

- tion, construction, and improvement of property, facilities, and equipment to carry out these capital and strategic plans;
- (11) Suing and being sued; provided that only the corporation may sue or be sued; and provided further that the corporation and regional system boards shall enjoy the same sovereign immunity available to the State;
  - (12) Making and altering corporation board and regional system board bylaws for its organization and management without regard to chapter 91[;] and consistent with this chapter; provided that each regional system board shall be responsible for the final approval of its regional system board bylaws;
  - (13) Adopting rules[;] without regard to chapter 91[;] governing the exercise of [its] the corporation's or regional system boards' powers and the fulfillment of its purpose under this chapter;
  - (14) Entering into any contract or agreement whatsoever, not inconsistent with this chapter or the laws of this State, and authorizing the corporation, regional system boards, and chief executive [officer] officers to enter into all contracts, execute all instruments, and do all things necessary or appropriate in the exercise of the powers granted in this chapter, including securing the payment of bonds; provided that the corporation board shall delegate to a regional system board its authority to enter into and execute contracts or agreements relating to matters exclusively affecting that regional system; provided further that a regional system board shall exercise this power consistent with corporation-wide policies; and provided further that contracts or agreements executed by a regional system board shall encumber only the regional subaccounts of that regional system board;
  - (15) Issuing revenue bonds up to \$100,000,000 subject to the approval of the [legislature;] governor or the director of finance; provided that [all];
    - (A) All revenue bonds shall be issued pursuant to part III, chapter 39;
    - (B) The corporation and any regional system board shall have the power to issue revenue bonds in any amount without regard to any limitation in chapter 39; and
    - (C) The corporation shall have the power to incur debt, including the issuance of revenue bonds in any amount, and the regional system boards shall have the power to issue revenue bonds in any amount upon approval by the corporation board;
  - (16) Reimbursing the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for the purposes of the corporation[;] or any regional system board;
  - (17) Pledging or assigning all or any part of the receipts [and], revenues, and other financial assets of the corporation or the regional system boards for purposes of meeting or securing bond or health systems liabilities; provided that each regional system board shall be responsible for conducting the activities under this paragraph in its own regional system. Any pledge or assignment by the corporation or any regional system board to secure revenue bonds or health system liabilities shall be valid and binding in accordance with its terms against the pledgor, creditors, and all others asserting rights thereto from the time the pledge or assignment is made, without the need of physical delivery, recordation, filing, or further act. The corporation shall not take or omit to take any act that would interfere with, impair, or adversely affect any pledge of assignment by a regional system board pursuant to this chapter. In connection with issuing revenue bonds or related obligations, consistent with corporation policies and procedures, any regional system

- board may make such other covenants, binding on the regional system board and the corporation, that the regional system board determines to be necessary or appropriate to establish and maintain security for the revenue bonds or related obligations;
- (18) Owning, purchasing, leasing, exchanging, or otherwise acquiring property, whether real, personal or mixed, tangible or intangible, and of any interest therein, in the name of the corporation, which property is not owned or controlled by the State but is owned or controlled by the corporation; provided that:
- (A) Regional system boards shall have custodial control over facilities and physical assets in their respective regional systems. A regional system board may own, purchase, lease, exchange, or otherwise acquire property, whether real, personal or mix, tangible or intangible, and of any interest therein, other than property owned or controlled by the corporation, in the name of the regional system board; provided further that a regional system board shall be subject to section 323F-A; and
- (B) Each regional system board shall be responsible for conducting the activities under this paragraph in its own regional system;
- (19) Maintaining, improving, pledging, mortgaging, selling, or otherwise holding or disposing of property, whether real, personal or mixed, tangible or intangible, and of any interest therein, at any time and manner, in furtherance of the purposes and mission of the corporation[;] or any regional system board; provided that the corporation or any regional system board legally holds or controls the property in its own name; provided further that other than to secure revenue bonds and related obligations and agents, the corporation or any regional system board shall not sell, assign, lease, hypothecate, mortgage, pledge, give, or dispose of all or substantially all of its property; and provided further that each regional system board shall be responsible for conducting the activities under this paragraph in its own regional system, and control over such property shall be delegated to each regional system board;
- (20) Purchasing insurance and creating captive insurers in any arrangement deemed in the best interest of the corporation, including but not limited to funding and payment of deductibles and purchase of reinsurance; provided that only the corporation shall have the power to create captive insurers to benefit public health facilities and operations in all regional systems; and provided further that a regional system board may purchase insurance for its regional system in collaboration with the other regional systems and the corporation until captive coverage is provided by the corporation;
- (21) Acquiring by condemnation, pursuant to chapter 101, any real property required by the corporation to carry out the powers granted by this chapter;
- (22) Depositing any moneys of the corporation or any regional system board in any banking institution within or without the State, and appointing, for the purpose of making deposits, one or more persons to act as custodians of the moneys of the corporation[;] or any regional system board; provided that regional system boards may deposit moneys in banking institutions pursuant to corporation-wide guidelines established by the corporation board;
- (23) Contracting for and accepting any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the State, any state agency, or any other source, or any combination thereof,

and complying, subject to this chapter, with the terms and conditions thereof; provided that the regional system boards shall be responsible for contracting for and accepting any gifts, grants, loans, property, or other aid if intended to benefit the public health facilities and operations exclusively in their respective regional systems; and provided further that all contracting for or acceptance of gifts, grants, loans, property, or other aid shall be consistent with corporation-wide policies established by the corporation board;

- (24) Providing health and medical services for the public directly or by agreement or lease with any person, firm, or private or public corporation, partnership, or association through or in the health facilities of the corporation or regional system boards or otherwise; provided that the regional system boards shall be responsible for conducting the activities under this paragraph in their respective regional systems;
- (25) Approving medical staff bylaws, rules, and medical staff appointments and reappointments for all public health facilities[;] of the corporation or any regional system board, including ~~[without limitation,]~~ but not limited to determining the conditions under which a health professional may be extended the privilege of practicing within a health facility, as determined by the respective regional system board and consistent with corporate-wide policies, and adopting and implementing reasonable rules, without regard to chapter 91, for the credentialing and peer review of all persons and health professionals within the facility; provided that regional system boards shall be the governing body responsible for all medical staff organization, peer review, and credentialing activities to the extent allowed by law;
- (26) (A) Investing any funds not required for immediate disbursement in property or in securities that meet the standard for investments established in chapter 88 as provided by the corporation board[;] or any regional system board; provided that proceeds of bonds and moneys pledged to secure bonds may be invested in obligations permitted by any document that authorizes the issuance or securing of bonds; and provided further that the investment assists the corporation or any regional system board in carrying out its public purposes; selling from time to time securities thus purchased and held, and depositing any securities in any bank or financial institution within or without the State. Any funds deposited in a banking institution or in any depository authorized in this section shall be secured in a manner and subject to terms and conditions as the corporation board or a regional system board may determine, with or without payment of any interest on the deposit, including[;] without limitation[;] time deposits evidenced by certificates of deposit. Any bank or financial institution incorporated under the laws of this State may act as depository of any funds of the corporation or a regional system board and may issue indemnity bonds or may pledge securities as may be required by the corporation or regional system board; provided that regional system boards may exercise the powers under this subsection with respect to financial assets of the regional system consistent with corporation-wide policies; and
  - (B) Notwithstanding subparagraph (A), contracting with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of any moneys of the corporation or regional system board and of any moneys held in trust or other-

- wise for the payment of notes or bonds and carrying out the contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds, and deposits of such moneys, may be secured in the same manner as moneys of the corporation[;] or regional system board, and all banks and trust companies are authorized to give security for the deposits;
- (27) Entering into any agreement with the State, including but not limited to contracts for the provision of goods, services, and facilities in support of the corporation's programs[;] or the regional system boards' programs, and contracting for the provision of services to or on behalf of the State; provided that the regional system boards shall be responsible for entering into agreements to provide goods, services, and facilities in support of programs in their respective regional systems consistent with corporation-wide policies;
- (28) Having a seal and altering the same at pleasure;
- (29) Waiving, by means that the corporation or regional system board deems appropriate, the exemption from federal income taxation of interest on the corporation's or regional system boards' bonds, notes, or other obligations provided by the Internal Revenue Code of 1986, as amended, or any other federal statute providing a similar exemption;
- (30) Developing internal policies and procedures for the procurement of goods and services, consistent with the goals of public accountability and public procurement practices,<sup>1</sup> and subject to management and financial legislative audits; provided that the regional system boards shall be responsible for developing internal policies and procedures for each of their regional systems consistent with the corporation's policies and procedures; and further provided that:
- (A) The regional system boards and the corporate board shall enjoy the exemption under section 103-53(e);
- (B) The regional system boards shall enjoy the exemption under chapter 103D; and
- (C) The corporation shall be subject to chapter 103D;
- (31) Authorizing and establishing positions; provided that regional system boards shall be responsible for hiring and firing regional and facility personnel consistent with corporation policies, except a regional chief executive officer and regional chief financial officer shall only be hired or dismissed upon the approval of the regional system board and the corporation board as further set forth in section 323F-B;
- [32] ~~Calling upon the attorney-general for such legal services as the corporation may require; and~~
- (33) (32) Having and exercising all rights and powers necessary or incidental to or implied from the specific powers granted in this chapter, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this chapter[-]; provided that the regional system boards shall be responsible for having and exercising all powers and rights with respect to matters in their regional systems consistent with the law; and
- (33) Each regional system, through its regional system board, shall:
- (A) Develop policies and procedures necessary or appropriate to plan, operate, manage, and control the day-to-day operations of facilities within the regional system that are consistent with corporation-wide policies;

- (B) Exercise custodial control over and use of all assets of the corporation that are located in the regional system pursuant to this chapter; and
- (C) Expend funds within its approved regional system budget and expend additional funds in excess of its approved regional system budget upon approval of the corporation board.

~~[(b) The corporation]~~ (d) Each regional system board shall not be subject to chapters 36 to 38, 40, [and] 41D, and 103D as well as part I of chapter 92 and shall enjoy the exemptions contained in sections 102-2 and 103-53(e), except as otherwise provided in this chapter. The corporation shall not be subject to chapters 36 to 38, 40, and 41D, as well as part I of chapter 92, and shall enjoy the exemptions contained in sections 102-2 and 103-53(e).

~~[(e)]~~ (e) The duties and powers granted to the corporation or any regional system board may not be used to enter into contractual or business relationships [which] that have the practical effect of allowing or are intended to allow [the private sector] private-sector counterparts to replace existing employee positions or responsibilities within the corporation or in any regional system or its facilities; provided the corporation or regional system boards shall be allowed to enter into such relationships to the extent and for the purposes that the division of community hospitals could have done under collective bargaining contracts [which] that were in effect for the 1995-1996 fiscal year."

SECTION 24. Section 323F-8, Hawaii Revised Statutes, is amended to read as follows:

**"§323F-8 Chief executive officer; exempt positions.** (a) The corporation board may appoint, exempt from chapter 76 and section 26-35(a)(4), a chief executive officer of the corporation whose salary shall be set by the corporation board. The chief executive officer may also appoint up to eighteen other personnel, exempt from chapters 76 and 89, to work directly for the chief executive officer and the corporate board.

(b) The corporation board or its designee may discharge its exempt personnel with or without cause; provided that removal without cause shall not prejudice any contract rights of personnel.

(c) The corporation's chief executive officer or the chief executive officer's designee may appoint, exempt from chapters 76 and 89, hospital administrators, assistant administrators, directors of nursing, medical directors, and staff physicians, to facilitate the management of facilities within the corporation; provided that directors of nursing appointed before July 1, 1998, may maintain their civil service status as provided in chapter 76 by so communicating in writing to the chief executive officer by October 31, 1998. Hospital administrators and assistant administrators appointed before July 1, 1983, may maintain their permanent civil service status as provided in chapter 76.

(d) Hiring, firing, compensation packages, and other personnel actions with respect to employees not covered by chapter 76 and 89 shall be governed by policies and guidelines established by the corporation, except as otherwise provided in this chapter.

(e) Upon the establishment of a regional system board, the authority to appoint regional hospital administrators, assistant administrators, directors of nursing, medical directors, and staff physicians under subsection (c) shall be superseded by section 323F-B for that regional system. No incumbent personnel shall lose a position without specific action taken by the regional system board."

SECTION 25. Section 323F-9, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§323F-9]] Hiring of attorneys. The corporation and regional system boards may employ or retain any attorney, by contract or otherwise, for the purpose of representing the corporation or regional system boards in any litigation, rendering legal counsel [to], or drafting legal documents for the corporation[, or drafting legal documents for the corporation.] or regional system boards.”~~

SECTION 26. Section 323F-10, Hawaii Revised Statutes, is amended to read as follows:

“**§323F-10 Regional public health facility management advisory committees.** (a) On the transfer date, there shall be established within the corporation for each region, a public health facility management advisory committee to consist of nine members initially to be appointed by the chief executive officer of the corporation with the advice of the hospital administrators of the facilities in the affected regions. The members shall serve for a term of four years; provided that upon the initial appointment of the members, two shall be appointed for a term of one year, two for a term of two years, two for a term of three years, and three for a term of four years.

Following the initial appointments by the chief executive officer of the corporation board, any vacancies on a regional committee shall be filled by a simple majority vote of the members of the executive committee from a list of qualified nominees submitted by the regional committee in which the vacancy occurred. If a regional committee vacancy remains unfilled for more than thirty days, that vacancy may be filled by the chief executive officer of the corporation.

Each regional management advisory committee shall include medical and health care providers, consumers, and knowledgeable individuals in other appropriate areas such as business and law; provided that at least one member shall be a physician with active medical staff privileges at one of the region’s public health facilities. At least three members of the committee shall be consumers.

The management advisory committee for the East Hawaii region shall have three members who reside in the Ka’u district, three members who reside in the Hamakua/North Hilo districts, and three members who reside in the South Hilo/Puna districts. The management advisory committee for the West Hawaii region shall have not less than three members who reside in the North Kohala/South Kohala districts.

Each regional committee shall select its own chairperson and vice chairperson and shall adopt rules governing the terms for removal of its chairperson from the executive management advisory committee. In the event of a regional committee voting to remove its chairperson who concurrently sits on the corporation board, that vote shall be unanimous. In the event of a regional committee voting to remove its physician member from the corporation board, that vote shall also be unanimous. Each regional committee may also adopt other rules as it may consider necessary for the conduct of its business.

The members of the regional committees shall serve without compensation, but shall be reimbursed for traveling expenses incurred in the performance of their duties. The corporation shall provide for the necessary expenses of the committees; provided that no expenses may be incurred without prior authorization by the chief executive officer.

(b) Each regional committee shall sit in an advisory capacity to the chief executive officer on matters concerning the formulation of regional operational and capital improvement budgets, and the planning, construction, improvement, maintenance, and operation of public health facilities within its respective jurisdiction and shall sit in an advisory capacity to the governor on matters concerning the nominees for positions on the corporation board. Nothing in this section shall be construed as precluding or preventing the committees from coordinating their efforts and activities with the facility administrators within their counties.

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(c) Each regional committee may prepare a report for inclusion with the corporation's annual report and audit, which shall include but not be limited to comments and analyses on the corporation's regional operational and capital improvement budgets for its respective region.

(d) Upon the establishment of a regional system board for a regional system pursuant to section 323F-A, this section shall no longer apply to that regional system."

SECTION 27. Section 323F-10.5, Hawaii Revised Statutes, is amended to read as follows:

**"[H]§323F-10.5[ ] Executive public health facility management advisory committee; establishment.** (a) There is established within the corporation an executive public health facility management advisory committee to consist of the chairpersons of each of the five regional public health facility management advisory committees. The executive committee shall, through its chairperson, represent the interests of all regional committees on the corporation board.

(b) The executive committee shall select its own chairperson to serve on the corporation board and shall adopt rules governing the terms of office and removal from the corporation board. The executive committee shall also adopt rules governing the terms of office for each of the five regional committee chairpersons. The executive committee may also adopt other rules as it may consider necessary for the conduct of its business.

(c) The members of the executive committee shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

(d) Upon the establishment of a regional system board for a regional system pursuant to section 323F-A, this section shall no longer apply to that regional system."

SECTION 28. Section 323F-10.6, Hawaii Revised Statutes, is amended to read as follows:

**"[H]§323F-10.6[ ] Peer review and credentialing.** ~~[Corporation board or other committee meetings pertaining to peer review and credentialing matters shall not be subject to part I of chapter 92.]~~ Peer review activities shall be subject to ~~[the provisions of]~~ chapters 663 and 671D and all other provisions and restrictions of medical peer review committees established by state law."

SECTION 29. Section 323F-11, Hawaii Revised Statutes, is amended to read as follows:

**"[H]§323F-11[ ] Executive branch; noninterference.** Notwithstanding any other law to the contrary, the governor and executive branch agencies shall limit their responsibilities to that of review and oversight when the corporation or regional system board receives general funds from the State to subsidize the operating budgets of deficit facilities. The governor and executive branch agencies shall not interfere with the systemic change, capacity building, advocacy, budget, personnel, system plan development, or plan implementation activities of the corporation~~[-]~~ or any regional system board. The governor and executive branch agencies shall not interfere with the ability of the corporation or regional system board to function as a multiple facility public hospital system delivering health care services to the residents of the State."

SECTION 30. Section 323F-21, Hawaii Revised Statutes, is amended to read as follows:

“(H)§323F-21(H) **Fiscal provisions.** (a) There is created in the state treasury a special fund to be known as the health systems special fund, into which shall be deposited all fees, proceeds, reimbursements, and the like owed to or received by the corporation, any regional system board, and its facilities, except as herein provided. There shall be established within the special fund regional subaccounts for each regional system board upon its establishment. The special fund and the regional subaccounts shall be used solely to fulfill the purposes outlined in this chapter.

The corporation and each regional system board may establish and maintain, within [its] the health systems special fund[;] or any regional subaccount, any other accounts that may be necessary and appropriate to carry out its purposes and responsibilities.

The corporation and any regional system board may deposit moneys into trustee accounts for the purposes of securing or issuing bonds.

The corporation and regional system boards may provide reasonable reserves for any of the following purposes:

- (1) Insurance deductibles;
- (2) The improvement, replacement, or expansion of [its] their facilities or services;
- (3) The securing of the corporation’s or regional system boards’ bonds, notes, or other instruments of indebtedness; or
- (4) Any other purpose [~~it deems~~] the corporation or the regional system boards deem necessary or appropriate in the performance of [its] their purposes and responsibilities.

(b) The corporation board and regional system boards shall collaboratively develop budgetary guidelines and annual operating and capital budgets for each facility[-], taking into account anticipated surpluses from or subsidies to the facilities pursuant to the annual guidelines described in this section, accumulated corporation and regional reserves and accounts, subsidies, if any, that are determined to be needed from the general fund, and other sources of corporation-wide and regional income as may be identified. Two-year budgets will be approved for regional system boards, in alignment with State of Hawaii biennium budgeting. The corporate board shall not alter the two-year budget of a regional system except:

- (1) Where state general funding is reduced;
- (2) An emergency exists; or
- (3) There is a renegotiated budget approved by a regional system board.

The corporation and regional system boards shall collaboratively develop budgetary guidelines[;] and [may allocate to] negotiate with each facility reasonable corporation administrative costs, including funds determined by the corporation or any regional system board to be needed from or provided to each facility to:

- (1) Repay corporation or regional system board debts;
- (2) Provide subsidies to any facility determined to be unable to fund from within that facility’s programs and services deemed essential to community needs; and
- (3) Maintain appropriate reserves.

(c) The corporation and regional system boards shall collaboratively develop annual corporation operating and capital budgets, taking into account anticipated surpluses from or subsidies to the facilities pursuant to the annual guidelines described in this section, accumulated corporation and regional system board reserves and accounts, subsidies, if any, that are determined to be needed from the general fund, and other sources of corporation-wide and regional system board income as may be identified.

(d) Beginning with the first of the legislative biennium budget years following the establishment of a regional system board, and for each biennium period thereafter, the corporation shall call together all the regional systems through representatives

selected by each regional system board, and the chairs of the facility management advisory committees, if any, to determine which services and functions should be provided by the corporation for the next biennium budget period, consistent with this chapter. As part of the biennium budgeting process, the corporation board and the representatives of each regional system, working through the corporation board regional representatives, shall agree upon an allocation methodology for funding the agreed upon and statutorily created corporate services and functions.

[(d)] (e) The corporation may share in any facility’s surplus and may offset any facility’s deficits[-] as provided herein. Any regional system board shall share in the surplus of any facility within the regional system and shall offset any facility deficits within its regional system. Operating surpluses of the regional system board shall be reinvested in the operations of that regional system in any prudent manner; provided that upon request, and subject to authorization by the regional system board, the regional system board may share its surplus or resources with a facility outside of the regional system to benefit the corporation-wide system of health care. Obligations undertaken by a facility shall be paid only from funds of that facility, unless the corporation board, the regional system board managing the facility, or [its] an authorized agent explicitly agrees to guarantee the obligation. Loans and other transfers may be made between regional systems upon approval of the affected regional system boards to assist in the cash flow and operations of the public health facilities.

[(e)] (f) In accordance with each annual facility budget, and subject to policies established by the corporation board and by each regional system board, each facility of the corporation and regional system board, respectively, shall:

- (1) Bill and collect for its services;
- (2) Maintain bank accounts; and
- (3) Pay for needed personnel, supplies, equipment, and other operational and capital expenditures.

[(f)] (g) The corporation and each regional system board, subject to policies established by the corporation and each regional system board, respectively, may elect to manage its own capital improvement project and funds, either directly or indirectly by contract; provided that annual reports of the project moneys are provided to the governor and legislature.

[(g)] (h) The corporation board and regional system boards may hold public informational meetings on [its budget-] their budgets. Representatives of any county government, state government, or any other person having an interest in the budget, shall have the right to be heard at the meetings.”

SECTION 31. Section 323F-22, Hawaii Revised Statutes, is amended to read as follows:

**“[H]§323F-22[.] Annual audit and report; disclosure of revenue projections.** (a) The corporation shall engage a certified public accountant to conduct an annual audit of its financial affairs, books, and records in accordance with generally accepted accounting principles. The corporation, in consultation with a regional system board, may permit or require a regional system board to retain an audit firm to conduct an independent audit of the regional system. Each regional system board shall submit the results of the annual audit to the corporation board within one hundred twenty days after the close of the regional system board’s fiscal year. The corporation shall submit to the governor and the legislature, within one hundred fifty days after the close of the corporation’s fiscal year, a report that shall include the audited financial report for that fiscal year[-] for the corporation and each regional system board.

(b) In addition to the submittal of the audit required under subsection (a), the corporation, in cooperation with the regional system boards, shall submit a report to

the legislature at least twenty days prior to the convening of each regular session that shall include but not be limited to:

- (1) The projected revenues for each health care facility;
- (2) A list of all proposed capital improvement projects planned for implementation during the following fiscal year; and
- (3) All reports submitted by regional public health facility management advisory committees pursuant to section 323F-10(c).

(c) The regional system boards shall prepare a report for inclusion with the corporation's annual report and audit.'

SECTION 32. Section 323F-23, Hawaii Revised Statutes, is amended to read as follows:

“[§323F-23] Exemption from taxation. The corporation and each regional system board shall [not] be [required to pay assessments] exempt from paying any:

- (1) Assessments levied by any county [~~nor shall the corporation be required to pay state]; and~~
- (2) State<sup>2</sup> taxes of any kind.’’

SECTION 33. Section 323F-24, Hawaii Revised Statutes, is amended to read as follows:

“[§323F-24] Budget oversight. The corporation's and each regional system board's operating and capital improvement budgets shall not be subject to review or approval by the governor or any state agency, except where state general funds or capital improvement moneys are requested. If general funds or capital improvement moneys are requested, then the corporation or any regional system board shall include, with its request, the proposed budget for which the funds or moneys are to be included. The corporation and regional system boards, once operational, shall collaboratively submit [its] their budgets annually to the legislature for review and approval at least twenty days prior to the convening of the regular legislative session, beginning with the budgets for the [1997-1998] 2010-2011 biennium fiscal years.’’

SECTION 34. Section 323F-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The corporation and each regional system board shall notify the legislature of any planned substantial reduction or elimination of direct patient care services.’’

SECTION 35. (a) It is the intent of this Act that the ability of the Hawaii health systems corporation to carry out its mission and improve the quality and efficiency of care in all of its regional systems will be enhanced by the delegation to community-based, regional system boards the custodial control over the assets, personnel, services, and operations of the corporation located in the public health facilities, consistent with system-wide planning, policies, and guidelines. This custodial control shall be delegated to the regional system boards in any regional system in which those boards are created within a reasonable period of time following the effective date of this Act. This Act shall be construed with this intent.

(b) Following a transition period of no longer than one year after the establishment of each regional system board, and by mutual agreement, the custodial control over the assets, personnel, services, and operations of the Hawaii health

systems corporation with regard to the facilities within the regional system shall be transferred to the regional system board, consistent with system-wide planning, policies, and guidelines, and applicable laws and rules. The corporation and newly established regional system boards shall report to the legislature within thirty days of the establishment of the newly created boards. The corporation shall assist any regional system considering such a request. Each transition shall take no longer than one year, unless a longer period is mutually agreed to by the corporation and the regional system.

(c) All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having 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 necessity of examination; provided that the officer or employee possess 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 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 the 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 employee 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 executive branch 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, provided that minimum qualifications are met.

Any officer or employee transferred to any regional system board pursuant to this Act who is a member of or has benefits under any existing pension or retirement fund system shall continue to have all rights, privileges, obligations, and status with respect to such fund or system as are now prescribed by law, but during the period of employment by any regional system board, all contributions to such funds or system to be paid by the employer on account of such officer or employee shall be paid by the corresponding regional system board.

(e) During any transition period or until a methodology for funding corporate services and functions as provided for in section 323F-21, Hawaii Revised Statutes, is developed, the Hawaii health systems corporation shall continue to provide to any regional system board services that the Hawaii health systems corporation provides to any of its facilities as of April 1, 2007, and may charge an amount consistent with charges levied on other facilities within the system for such services. In the event there is a service provided by the corporation to only one regional system, and the regional system board determines that it does not need the service during this interim period, the regional system board may terminate the service upon one hundred eighty days written notice to the corporation board.

SECTION 36. The terms of the membership of the Hawaii health systems corporation board shall expire as follows:

- (1) The terms of board members whose date of appointment was prior to and including July 1, 2004, shall expire on December 31, 2007;
- (2) The terms of board members whose date of appointment was after July 1, 2004, and before July 1, 2007, shall expire on September 30, 2008.

Appointments to the Hawaii health systems corporation board that occur after December 31, 2007, shall be conducted as set forth in section 19 of this Act.

SECTION 37. There is appropriated out of the general revenues of the State of Hawaii the sum of \$750,000 or so much thereof as may be necessary for fiscal year 2007-2008 to support the establishment of regional system boards of the Hawaii health systems corporation. The sum appropriated shall be expended by the Hawaii health systems corporation for the purposes of this Act.

SECTION 38. All acts passed prior to or during this regular session of 2007, whether enacted before or after passage of this Act shall be interpreted to conform to this Act, unless the acts specifically provide that this Act is being amended. In so far as this Act is inconsistent with any other law, this Act shall control.

SECTION 39. In codifying the new sections added by section 2 of this Act, the reviser of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 40. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>3</sup>

SECTION 41. This Act shall take effect on July 1, 2007; provided that the amendments made to section 323F-7(c)(15), Hawaii Revised Statutes, in section 23 of this Act shall not take effect if H.B. No. 1764<sup>4</sup> in any form passed by the legislature, regular session of 2007, becomes an Act.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

**Notes**

1. So in original.
2. "State" should be underscored.
3. Edited pursuant to HRS §23G-16.5.
4. Vetoed by Governor.

**ACT 291**

S.B. NO. 162

A Bill for an Act Relating to Iolani Palace.

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

SECTION 1. The legislature finds that Iolani Palace is a historic treasure, officially recognized by the State of Hawaii.

Built by King David Kalakaua in 1882, the palace served as the official royal residence until the overthrow of the monarchy in 1893. Following the overthrow, Iolani Palace was confiscated by the provisional government and used as its headquarters. It subsequently became the capitol of the Republic of Hawaii in 1894, the Territory of Hawaii in 1900, and the State of Hawaii in 1959.

In 1966, Liliuokalani Kawanānakoā Morris founded the "Friends of Iolani Palace," a community-based, non-profit organization dedicated to carrying out the restoration of the palace and the preservation of the history of the Hawaiian monarchy. When the new state capitol was completed in 1969, the palace was vacated, and restoration began. In 1978, the palace reopened to the public as a historic house museum with docent-led guided tours.

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The legislature further recognizes that the Friends of Iolani Palace has served as the “de facto” caretaker for over forty years by maintaining Hawaii’s most significant historic house museum, preserving its irreplaceable collections; and planning and presenting its exhibits and educational programs without the benefit of regular, predictable support from state sources, and, instead, relying on private donations and small, piecemeal state subsidies. It is the intent of this Act to provide support for the palace by officially designating Iolani Palace as the “State of Hawaii Museum of Monarchy History” and exempting the museum from the standards and conditions related to the receipt of funds under chapter 42F, Hawaii Revised Statutes.

The legislature finds that the Friends of Iolani Palace provides an important public service in maintaining this significant building. The legislature further finds that the Friends of Iolani Palace deserves the financial support of the legislature through an unspecified appropriation in the state budget.

The purpose of this Act is to:

- (1) Designate the Friends of Iolani Palace as the State of Hawaii Museum of Monarchy History;
- (2) Exempt the State of Hawaii Museum of Monarchy History from the standards and conditions related to the receipt of funds contained in chapter 42F, Hawaii Revised Statutes;
- (3) Authorize the comptroller and state auditor to examine the use of funds appropriated to the State of Hawaii Museum of Monarchy History; and
- (4) Require the State of Hawaii Museum of Monarchy History to submit annual reports to the legislature of functions accomplished by state fund expenditures.

SECTION 2. Section 6E-35, Hawaii Revised Statutes, is amended to read as follows:

“~~[§6E-35]~~ **Iolani Palace.** (a) The official designation of the palace of the former monarchs of Hawaii shall be Iolani Palace.

(b) The official designation of the Friends of Iolani Palace shall be the State of Hawaii Museum of Monarchy History. The qualifying standards and conditions related to the receipt of funds under chapter 42F shall not apply to funds received by the State of Hawaii Museum of Monarchy History; provided that if the museum contracts with a recipient or provider, then the qualifying standards, conditions, and other provisions of chapter 42F shall apply to the recipient or provider and the contract.

(c) The comptroller and state auditor shall have the authority to examine the use of funds appropriated to the State of Hawaii Museum of Monarchy History.”

SECTION 3. The State of Hawaii Museum of Monarchy History shall provide to the legislature an annual report no later than twenty days prior to the convening of each regular session, which shall include an explanation of the facility maintenance and other functions accomplished by state fund expenditures in the previous fiscal year.

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

SECTION 5. This Act shall take effect upon approval.

(Became law on July 10, 2007, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

## ACT 292

S.B. NO. 138

A Bill for an Act Relating to Diamond Head State Monument.

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

SECTION 1. Section 184-3.4, Hawaii Revised Statutes, is amended to read as follows:

“**§184-3.4 State parks special fund.** (a) There is established within the state treasury a fund to be known as the state parks special fund, into which shall be deposited:

- (1) All proceeds collected by the state parks programs involving park user fees, any leases or concession agreements, the sale of any article purchased from the department to benefit the state parks programs, or any gifts or contributions; provided that proceeds derived from the operation of Iolani Palace shall be used to supplement its educational and interpretive programs; and
- (2) Transient accommodations tax revenues pursuant to section 237D-6.5; provided that these moneys shall be expended in response to a master plan developed in coordination with the Hawaii tourism authority.

(b) The department shall expend the moneys from the state parks special fund for the following purposes:

- (1) Permanent and temporary staff positions;
- (2) Planning and development of state parks programs, including the aina hoomalu state parks program;
- (3) Construction, repairs, replacement, additions, and extensions of state parks facilities;
- (4) Operation and maintenance costs of state parks and state parks programs; and
- (5) Administrative costs of the division of state parks.

(c) There is established within the state parks special fund, a Diamond Head State Monument sub-account, into which shall be deposited fifty-five per cent of all proceeds collected from the admission fees charged at the Diamond Head State Monument. The department shall expend the moneys from the Diamond Head State Monument sub-account for repair, maintenance, and operating costs incurred by the State in the management of the Diamond Head State Monument.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

## ACT 293

S.B. NO. 810

A Bill for an Act Relating to Waimano Ridge.

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

SECTION 1. The legislature finds that good communication and relations between the state administration and the residents of the Waimano ridge community

## ACT 294

are imperative in planning the use of the state-owned lands in the Waimano ridge area.

The legislature further finds that a new or updated master plan for the state-owned Waimano ridge lands is necessary. In the early 1990s, there was a collaborative government and community effort to establish a master plan for the Waimano ridge area. This master plan was formulated by the department of health with community input and was designed to create a “totally integrated community” where activities on the state-owned Waimano ridge lands would be community-friendly. However, after the plan was developed, the State’s economy took a downturn and the in-patient care facility on the Waimano ridge closed, which significantly affected the implementation of the master plan.

In 2005, the legislature enacted Act 7, Special Session Laws of Hawaii 2005, which required the department of health to give prior notice to the Waimano neighborhood board and the members of the legislature from that district and to obtain the approval of the governor for any use of state-owned land under the department’s jurisdiction in the Waimano ridge area prior to use of the land. Additionally, Act 7 required the department to prepare an updated master plan for the Waimano ridge lands.

In 2006, the legislature and the department of health convened the Waimano ridge task force to improve communications and relations between the community and the State and to lay the groundwork for a new master plan.

The purpose of this Act is to appropriate funds to facilitate the establishment of a “totally integrated community” where activities on the state-owned Waimano ridge lands will be community-friendly by funding the activities of the Waimano ridge task force and establishing a comprehensive Waimano ridge master plan.

SECTION 2. 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 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for the Waimano ridge task force operating expenses.

The sums appropriated shall be expended by the department of health for the purposes of this section.

SECTION 3. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

## ACT 294

H.B. NO. 1746

A Bill for an Act Relating to Voluntary Employees’ Beneficiary Association Trusts.

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

SECTION 1. Act 245, Session Laws of Hawaii 2005, is amended by amending section 1 to read as follows:

“SECTION 1. The purpose of this Act is to allow for the temporary establishment of an employee organization sponsored trust that would provide health benefits for state and county employees of a particular bargaining unit, as well as future retirees of that bargaining unit and existing retirees who wish to participate in such a trust. The trust would be established as a voluntary employees’ beneficiary association (VEBA) trust pursuant to section 501(c)(9) of the Internal Revenue Code

of 1986, as amended. The trust would be funded by employer contributions negotiated pursuant to a collective bargaining agreement and employee contributions to be determined by the trust's board of trustees for active employees. The Act imposes on the trust all of the standards and requirements of the Employee Retirement Income Security Act of 1974, as amended (ERISA). Even if the trust is deemed to be a governmental plan exempt from ERISA, the legislative intent is that the trust must comply with the standards and requirements of ERISA as a matter of state law and that such shall be enforced by the attorney general as well as participants, beneficiaries, and fiduciaries of the plan or plans established by the trust.

This Act also provides for retiree coverage for any employee who retires from the State or the counties who was a member of an employee organization that establishes a VEBA trust pursuant to a collective bargaining agreement effective on or after July 1, 2005. Existing retirees who are members of an employee organization and who were previously covered by a collective bargaining agreement will be provided a one-time opportunity to join the VEBA trust once established. Retiree coverage for existing retirees provided by an employee organization's VEBA trust would be funded by employer contributions made directly to the VEBA trust by the employer.

The requirement of establishing a VEBA trust in order to be exempt from participation in the Hawaii employer-union health benefits trust fund is intended to be a cost containment measure in response to the ever-increasing costs of health care throughout the [state.] State. However, because of the lack of data available on the impact of a VEBA trust on the Hawaii employer-union health benefits trust fund, this Act would allow the establishment of a VEBA trust pilot program for a period of three years. During this period, a thorough analysis of the costs and benefits of a VEBA trust can be evaluated against the Hawaii employer-union health benefits trust fund to determine what actual savings could be realized by the State through this mechanism."

SECTION 2. Act 245, Session Laws of Hawaii 2005, is amended by amending section 8 to read as follows:

"SECTION 8. This Act shall take effect upon its approval, for the purpose of establishing a voluntary [~~employees~~] employees' beneficiary association trust pilot program in March, 2006 and shall be repealed on July 1, [~~2008;~~] 2009; provided that sections 89-2, 89-3, 89-6, and 89-9, Hawaii Revised Statutes, are reenacted in the form in which they read on the day before the effective date of this Act."

SECTION 3. Act 245, Session Laws of Hawaii 2005, is amended by adding a new section to read as follows:

"SECTION 7A. Any employee organization that establishes a voluntary employees' beneficiary association trust in March, 2006 and pursuant to this Act shall submit a report to the legislature on the status of the trust no later than one hundred fifty days after two full plan years of the trust's implementation, and annually thereafter. A plan year is defined as the twelve-month period from July 1 through June 30."

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

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

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

**SPECIAL SESSION OF 2007**

**Session Laws of Hawaii  
Passed By The  
Twenty-Fourth State Legislature  
Special Session  
2007**

**ACT 1**

H.B. NO. 30

A Bill for an Act Relating to International Trade Agreements.

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

SECTION 1. The legislature finds that a number of today's international free trade agreements contain policy obligations and restrictions that would take precedence over state and local government provisions relating to state purchasing laws and preferences. These trade agreements may undermine state and local laws relating to requirements that a product contain a certain minimum amount of recycled material. They may also undermine state laws that would discourage the off-shoring of jobs or encourage the purchase of locally-produced goods and services.

However, because the expenditure of state tax dollars is an intrinsic function of state government, the federal government has refrained from unilaterally binding states to the procurement provisions in international trade agreements. Instead, the United States Trade Representative has sent out correspondences to all the states' governors asking that the governors voluntarily bind their states to procurement rules to be included in various new international trade agreements now being negotiated. The legislature is informed that Hawaii governors, in this manner, have bound the State to procurement provisions contained in the World Trade Organization, the United States-Chile Free Trade Agreement, the United States-Singapore Free Trade Agreement, the Moroccan Free Trade Agreement, and the United States-Australia Free Trade Agreement. The provisions contained in these agreements may undermine provisions of the State's public procurement code and other state preference and set-aside policies established to promote and protect various sectors and groups of our local economy. However, questions relating to the State's public procurement code or decisions relating to state preference and set-aside policies are within the legislative domain and should require legislative action.

The legislature finds that the governor vetoed H.B. No. 2199, C.D. 1, 2006, relating to international trade agreements. The basis of the veto concerns were:

- (1) Providing a timely response within the federal government deadlines for consenting to an international trade agreement;
- (2) Why the legislature heretofore did not seek to bind previous governors of Hawaii; and

- (3) The adverse effects on conducting business in the state if the legislature is involved in approving international trade agreements and does not do so in a timely manner.

The legislature finds that previous governors did not seek to bind the State to international trade agreements to the same extent as the current governor, who in 2003 consented to an array of pending trade agreements. Furthermore, any adverse effect upon the procurement code is a consideration for the legislature to resolve in approving any trade agreement.

The purpose of this Act is to prohibit the future binding of the State to government procurement rules contained in an international trade agreement without legislative action.

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

**“CHAPTER  
INTERNATIONAL TRADE AGREEMENTS**

§ -1 **Definitions.** As used in this chapter:

“International trade agreement” means a trade agreement or memorandum of agreement between the United States government and a foreign nation, whether bilateral, multilateral, global, or regional, to which the State, at the request of the United States government, is a covered procuring entity; provided the term shall not include a trade agreement or memoranda of agreement:

- (1) Between the State and a foreign nation or its sub-national entity to which the United States government is not a party; or
- (2) Between a county and a foreign nation or its sub-national entity to which the United States government is not a party.

“Procurement” means any provision of chapter 103D.

§ -2 **International procurement rules, legislative action.** (a) Any international trade agreement entered into by the President of the United States that contains provisions relating in any manner to procurement by the states shall not be valid as to those procurement provisions as it applies to this State, unless the legislature by a simple majority vote on a concurrent resolution approves of those procurement provisions. The legislature shall consider, among other things, the effect of an international trade agreement upon procurement preferences and upon the possibility of foreign governments ceasing to do business with the State.

(b) When the federal government notifies the State of an impending international trade agreement and seeks the State’s approval when the legislature is not in session, the governor shall notify the president of the senate and the speaker of the house of representatives. The legislature may consider approval of the procurement provisions during a special session convened as provided in Article III, section 10, of the Hawaii state constitution. The governor may not approve a trade agreement without legislative approval of its procurement provisions by a simple majority vote on a concurrent resolution.

§ -3 **Federal law; conferral of authority.** This chapter is not intended to preclude state officials from entering into international trade agreements when federal law confers the authority on state officials to do so, subject to section -2.

§ -4 **Prior agreements before Act.** Any international trade agreement entered into by the President of the United States, which contains provisions relating

in any manner to procurement by the states to which the governor has agreed prior to the effective date of this Act, shall remain valid.”

SECTION 3. The governor shall notify the revisor of statutes of the obligations of the State specified in international trade agreements to which the State is a consenting party. The revisor of statutes shall annotate the Hawaii Revised Statutes with regard to these obligations, as deemed necessary.

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

(Vetoed by Governor and veto overridden by Legislature on July 10, 2007.)

## ACT 2

H.B. NO. 310

A Bill for an Act Relating to Technology.

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

SECTION 1. Technology is the key to success in today’s economy. The legislature finds that removing barriers against broadband deployment by using a technology-neutral approach will encourage lower prices for broadband services and create more consumer choices. In addition, deploying broadband networks and advanced communication services throughout Hawaii are essential for the State to keep pace with global changes in economic diversification, energy and environmental technology, healthcare, public safety, and education.

The legislature further finds that Hawaii’s enterprises do not have access to the types of low-cost, high-capacity digital transport services which are increasingly available in communities concerned about advanced affordable services. As a result, state action is needed to support investment in, stimulate the adoption of, and remove potential barriers to the development and availability of world-class and universally accessible broadband networks in Hawaii.

Offering affordable Internet access services statewide is an essential element of a long-term strategy to invest in the State’s workers, residents, and most importantly, the future of Hawaii’s children.

The purpose of this Act is to establish a Hawaii broadband task force to:

- (1) Remove barriers to broadband access, including gaining wider access to public rights-of-way;
- (2) Identify opportunities for increased broadband deployment and adoption, including very high speed broadband services; and
- (3) Enable the creation and deployment of new advanced communication technologies in Hawaii.

SECTION 2. (a) There is established the Hawaii broadband task force. The task force shall be comprised of the following:

- (1) Three members of the senate, appointed by the president of the senate;
- (2) Three members of the house of representatives, appointed by the speaker of the house of representatives;
- (3) Four representatives of federal, state, and county government entities having a role in infrastructure deployment; management of public rights-of-way, regulation, and franchising; information technology; and economic development; and

- (4) Five representatives of Hawaii's private sector technology, telecommunications, and investment industries, including the incumbent local exchange carrier;

provided that the members in paragraphs (3) and (4) shall be appointed jointly by the president of the senate and the speaker of the house of representatives.

(b) The members of the task force shall select the chairperson of the task force and shall be reimbursed for reasonable expenses, including travel expenses, necessary for the performance of their duties.

(c) The task force shall:

- (1) Identify actions that will produce increased investment in and the availability of advanced broadband capabilities at more affordable costs by using new approaches to broadband deployment, including through increased access to public rights-of-way and shared fiber infrastructure;
- (2) Identify administrative actions that will promote broadband access and usage within the state;
- (3) Make specific recommendations on how Hawaii can leverage federal, state, and international opportunities for and eliminate any related barriers to broadband access and adoption;
- (4) Focus special attention on how broadband can be used to substantially benefit educational institutions, healthcare institutions, community-based organizations, and governmental institutions;
- (5) Consult with public and private stakeholders to coordinate statewide efforts to obtain and maximize loan funding available for broadband deployment and development projects in the state;
- (6) Consult with private sector stakeholders to leverage opportunities to increase investments in state-of-the-art technologies, and new approaches to advancing capabilities at reduced costs;
- (7) Identify best practices to establish a database that identifies current and prospective projects for deploying broadband;
- (8) Encourage all state and county agencies to lead by example by obtaining the necessary equipment for broadband usage and have full access to broadband service; and
- (9) Encourage all state and county agencies to study the feasibility of and utilize various services that broadband provides such as streaming video technologies to broadcast public meetings over the Internet, videoconferencing, wireless Internet access in state and county facilities that are most used by the public, and the deployment of voice over Internet protocol (VoIP).

(d) The office of the auditor shall provide the research and organizational support services necessary to assist the task force in achieving its purpose as required under this Act.

(e) The task force shall submit a report of its initial findings and recommendations regarding improved broadband capabilities and services to the legislature no later than twenty days prior to the convening of the regular session of 2008.

(f) The task force shall submit a final plan for the development of improved broadband capabilities and services, including any proposed legislation, no later than twenty days prior to the convening of the regular session of 2009.

(g) The Hawaii broadband task force shall cease to exist after June 30, 2009.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the purpose of supporting the work of the Hawaii broadband task force established in section 2.

The sum appropriated shall be expended by the office of the auditor for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2007.

(Vetoed by Governor and veto overridden by Legislature on July 10, 2007.)

## ACT 3

H.B. NO. 718

A Bill for an Act Relating to Kakaako.

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

SECTION 1. The legislature finds that the Kewalo Keiki Fishing Conservancy, an Internal Revenue Code section 501(c)(3) nonprofit corporation, is dedicated to teaching the children of Hawaii the skills and joy of fishing, instilling aquatic conservation principles for the preservation of ocean resources, and perpetuating Hawaiian cultural traditions for the preservation of the resources of the ocean. The children are taught by kupuna and disabled persons with skills and experience in fishing and instilling aquatic conservation principles.

The Kewalo basin cove is a protected area that is ideal for a facility enabling multigenerational activities bringing together the young and the elderly to interact and participate in this educational activity. In the past, the Kewalo Keiki Fishing Conservancy used the facility known as the old ice chute and fuel dock operations building at Kewalo basin cove for its site-dependent activities; however, the Hawaii community development authority has recently demolished that facility.

The legislature finds that there has been a full assessment of varying levels of subsurface environmental contamination around the site due to prior uses of the site by the fishing industry.

The purpose of this Act is to:

- (1) Require the Hawaii community development authority to set aside the old ice chute and fuel dock operations building site for use by the Kewalo Keiki Fishing Conservancy; and
- (2) Appropriate funds to the Hawaii community development authority to proceed with necessary environmental remediation at the site.

SECTION 2. The Hawaii community development authority shall set aside portions of tax map key (first division) 2-1-058:41 and 2-1-058:116, comprised of approximately fifteen thousand square feet, at Kewalo basin cove and known as the former ice chute and fuel dock operations building site and perimeter area, including its Kewalo basin cove and channel bulkheads, for continued use by the Kewalo Keiki Fishing Conservancy.

SECTION 3. The Hawaii community development authority shall determine whether any environmental remediation is required and, if required, shall establish the parameters for any necessary corrective action for the environmental remediation and proceed accordingly.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$30,000 or so much thereof as may be necessary for fiscal year 2007-2008 to the Hawaii community development authority for any necessary remediation at tax map keys (first division) 2-1-058:41 and 2-1-058:116 for continued use by the Kewalo Keiki Fishing Conservancy.

The sum appropriated shall be expended by the Hawaii community development authority for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 2007.

(Vetoed by Governor and veto overridden by Legislature on July 10, 2007.)

## ACT 4

H.B. NO. 1270

A Bill for an Act Relating to State Planning.

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

### PART I

SECTION 1. The purpose of this part is to:

- (1) Update the duties and responsibilities of the office of planning in managing and coordinating a statewide geospatial information and data integration program;
- (2) Stress the importance of data sharing among government agencies to maintain a comprehensive data resource that can be drawn upon for decision-making related to such essential public policy issues as land use planning, resource management, homeland security, and the overall health, safety, and well-being of Hawaii's residents; and
- (3) Establish a special fund to help support the operation and maintenance of the program and enable the office of planning to collect moneys to facilitate operational aspects of the statewide planning and geographic information system and charge fees for spatial analysis services.

SECTION 2. Chapter 225M, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§225M- Statewide geospatial information and data integration special fund.** (a) There is established in the state treasury the statewide geospatial information and data integration special fund, into which shall be deposited:

- (1) Moneys directed, allocated, or disbursed to the statewide geospatial information and data integration program from other government agencies or private sources to help support the acquisition of hardware, software, applications, and databases;
- (2) Moneys directed, allocated, or disbursed to the statewide geospatial technologies program from non-state sources, including but not limited to grants, awards, and donations;
- (3) Moneys collected as fees for statewide planning and geographic information system services rendered; and
- (4) Investment earnings credited to the assets of the fund and all interest on special fund balances.

(b) The statewide geospatial information and data integration special fund shall be used to help defray the cost of, including but not limited to the following:

- (1) Programs and activities to implement this chapter, including the provision of state funds to match federal funds from the United States Geological Survey or other federal departments; and
- (2) Operating costs of the statewide planning and geographic information system, including acquisition and maintenance of hardware or software

necessary to implement this chapter, acquisition and maintenance of geospatial and other data, application development, training, and other products or services of general benefit to the statewide geospatial information and data integration program and its stakeholders.”

SECTION 3. Section 225M-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The office of planning shall gather, analyze, and provide information to the governor to assist in the overall analysis and formulation of state policies and strategies to provide central direction and cohesion in the allocation of resources and effectuation of state activities and programs and effectively address current or emerging issues and opportunities. More specifically, the office shall engage in the following activities:

- (1) State comprehensive planning and program coordination. Formulating and articulating comprehensive statewide goals, objectives, policies, and priorities, and coordinating their implementation through the statewide planning system established in part II of chapter 226;
- (2) Strategic planning. Identifying and analyzing significant issues, problems, and opportunities confronting the State, and formulating strategies and alternative courses of action in response to identified problems and opportunities by:
  - (A) Providing in-depth policy research, analysis, and recommendations on existing or potential areas of critical state concern;
  - (B) Examining and evaluating the effectiveness of state programs in implementing state policies and priorities;
  - (C) Monitoring through surveys, environmental scanning, and other techniques—current social, economic, and physical conditions and trends; and
  - (D) Developing, in collaboration with affected public or private agencies and organizations, implementation plans and schedules and, where appropriate, assisting in the mobilization of resources to meet identified needs;
- (3) Planning coordination and cooperation. Facilitating coordinated and cooperative planning and policy development and implementation activities among state agencies and between the state, county, and federal governments, by:
  - (A) Reviewing, assessing, and coordinating, as necessary, major plans, programs, projects, and regulatory activities existing or proposed by state and county agencies;
  - (B) Formulating mechanisms to simplify, streamline, or coordinate interagency development and regulatory processes; and
  - (C) Recognizing the presence of federal defense and security forces and agencies in the State as important state concerns;
- (4) [Planning] Statewide planning and geographic information system. Collecting, integrating, analyzing, maintaining, and disseminating various forms of data and information, including geospatial data and information, to further effective state planning, policy analysis and development, and delivery of government services by:
  - (A) [Assembling,] Collecting, assembling, organizing, evaluating, and classifying existing geospatial and non-geospatial data and performing necessary basic research [in order], conversions, and integration to provide a common data base for governmental planning[;] and geospatial analyses by state agencies;

- (B) Planning, [developing, implementing, and] coordinating, and maintaining a comprehensive, shared statewide planning and geographic information system[-] and associated geospatial data-base. The office shall be the lead agency responsible for [planning and] coordinating the [establishment] maintenance of [a] the multi-agency, statewide planning and geographic information system and [the development of planning] coordinating, collecting, integrating, and disseminating geospatial data sets that are used to support a variety of state agency applications[-, includ- ing] and other spatial data analyses to enhance decision making[;]. The office shall promote and encourage free and open data sharing among and between all government agencies. To ensure the maintenance of a comprehensive, accurate, up-to-date geospatial data resource that can be drawn upon for decision-making related to essential public policy issues such as land use planning, resource management, homeland security, and the overall health, safety, and well-being of Hawaii's citizens, and to avoid redundant data development efforts, state agencies shall provide to the shared system either their respective geospatial databases or, at a minimum, especially in cases of secure or confidential data sets that cannot be shared or must be restricted, metadata describing existing geospatial data. In cases where agencies provide restricted data, the office of planning shall ensure the security of that data; and
- (C) Maintaining a centralized depository of state and national planning references;
- (5) Land use planning. Developing and presenting the position of the State in all boundary change petitions and proceedings before the land use commission, assisting state agencies in the development and submittal of petitions for land use district boundary amendments, and conducting periodic reviews of the classification and districting of all lands in the [State,] state, as specified in chapter 205;
- (6) Coastal and ocean policy management. Carrying out the lead agency responsibilities for the Hawaii coastal zone management program, as specified in chapter 205A. Also, developing and maintaining an ocean and coastal resources information, planning, and management system further developing and coordinating implementation of the ocean resources management plan, and formulating ocean policies with respect to the exclusive economic zone, coral reefs, and national marine sanctuaries;
- (7) Regional planning and studies. Conducting plans and studies to determine:
- (A) The capability of various regions within the [State] state to support projected increases in both resident populations and visitors;
- (B) The potential physical, social, economic, and environmental impact on these regions resulting from increases in both resident populations and visitors;
- (C) The maximum annual visitor carrying capacity for the [State] state by region, county, and island; and
- (D) The appropriate guidance and management of selected regions and areas of statewide critical concern.

The studies in subparagraphs (A) to (C) shall be conducted at appropriate intervals, but not less than once every five years; and

- (8) Regional, national, and international planning. Participating in and ensuring that state plans, policies, and objectives are consistent, to the extent practicable, with regional, national, and international planning efforts.”

SECTION 4. Section 225M-6, Hawaii Revised Statutes, is amended to read as follows:

“**§225M-6 Fees for statewide planning and geographic information system services[.] and products.** The office of planning may charge fees for statewide planning and geographic information system services and products. All fees collected for statewide planning and geographic information system analyses and other related services shall be deposited into the statewide geospatial information and data integration special fund for the sole purpose of supporting the statewide planning and geographic information system. The office shall adopt rules setting fees for statewide planning and geographic information system services and products.”

SECTION 5. There is appropriated out of the statewide geospatial information and data integration special fund created in section 2 of this part the sum of \$500,000 or so much or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for the purposes of the statewide geospatial information and data integration special fund.

The sums appropriated shall be expended by the office of planning of the department of business, economic development, and tourism for the purposes of the statewide geospatial information and data integration special fund.

## PART II

SECTION 6. During the 2005 special session, the legislature adopted Act 8, Special Session Laws of Hawaii 2005, which created the Hawaii 2050 task force to review the Hawaii state plan and the State’s planning process, and required the office of the auditor to prepare and submit to the legislature the Hawaii 2050 sustainability plan. In 2006, the legislature adopted Act 210, Session Laws of Hawaii 2006, which extended the life of the task force after the members recommended in their report before the 2006 regular session that more time was required to perform necessary research and community outreach to create the Hawaii 2050 sustainability plan.

The task force continued to hold several meetings throughout the 2006 legislative interim and launched a successful sustainability kick-off event in August 2006, that was attended by several sectors of the community statewide. The Hawaii 2050 sustainability kick-off event launched community engagement and public education activities throughout the state during the fall of 2006.

The purpose of this part is to appropriate moneys to provide additional funding for the Hawaii 2050 task force to develop the Hawaii 2050 plan.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$850,000 or so much thereof as may be necessary for fiscal year 2007-2008 to provide additional funding for the Hawaii 2050 task force to develop a Hawaii 2050 sustainability plan to be submitted to the legislature before the convening of the 2008 regular session.

The sum appropriated shall be expended by the office of the auditor for the purposes of this part.

## PART III

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 9. This Act shall take effect on July 1, 2007.

(Vetoed by Governor and veto overridden by Legislature on July 10, 2007.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 5

H.B. NO. 1503

A Bill for an Act Relating to Employment.

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

SECTION 1. Section 394B-2, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

““Divestiture” means the transfer of any covered establishment from one employer to another because of the sale, transfer, merger, bankruptcy, or other business takeover or transaction of business interests that causes the covered establishment’s employees to become dislocated workers.”

2. By amending the definitions of “closing”, “covered establishment”, and “employer” to read:

““Closing” means the permanent shutting down of all operations within a covered establishment due to the sale, transfer, merger, [and] other business takeover or transaction of business interests [which], bankruptcy, or other close of business transaction that results in or may result in the layoff or termination of employees of a covered establishment by the employer.

“Covered establishment” means any industrial, commercial, or other business entity [which] that employs at any time in the preceding twelve-month period, fifty or more persons.

“Employer” means any [person who,] individual or entity that, directly or indirectly, owns, operates, or has a controlling interest in a covered establishment, excluding the State or any political subdivision thereof.”

SECTION 2. Section 394B-9, Hawaii Revised Statutes, is amended to read as follows:

“§394B-9 Notification[.]; penalty. (a) An employer in a covered establishment shall provide to each employee and the director written notification of a closing, divestiture, partial closing, or relocation at least sixty days prior to its occurrence.

(b) An employer that violates this section shall be liable to each affected employee for an amount equal to back pay and benefits for the period of violation not to exceed sixty days. This liability may be reduced by any:

(1) Wages the employer pays during the notice period; and

(2) Voluntary and unconditional payment not required by a legal obligation.

(c) An employer of a covered establishment that is actively seeking a buyer for a sale, transfer, or merger shall not be required to provide the notice required

under subsection (a) until the employer has entered into a binding agreement for the sale, transfer, or merger of the covered establishment that results in a divestiture.

(d) An employer who fails to provide notice under this section shall be subject to a civil penalty not to exceed \$500 for each day of the violation and the amount shall be deposited in the employment and training fund under section 383-128; provided that the employer may avoid the penalty if the employer satisfies its liability to each affected employee within three weeks after the closing. In any suit, the court, in its discretion, may award the prevailing party reasonable attorney's fees and costs."

SECTION 3. Section 394B-12, Hawaii Revised Statutes, is amended to read as follows:

“[H]§394B-12[H] Civil penalties. [Any] Except as provided in section 394B-9(b), any employer who fails to conform to the provisions of this chapter shall be liable to each of the employees affected in an amount equal to the value of all their wages, benefits, and other compensation for the three months preceding the closure, partial closure, or relocation of the covered establishment.”

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 and stricken. New statutory material is underscored.

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

(Vetoed by Governor and veto overridden by Legislature on July 10, 2007.)

## ACT 6

H.B. NO. 1605

A Bill for an Act Relating to Traffic Control.

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

SECTION 1. The legislature finds that an intelligent transportation system applies communications and information technology to provide solutions to congestion and traffic control issues. Such a system uses a variety of field devices in partnership with a traffic control center via a single mode fiber-optic network to effectively alleviate traffic congestion in a geographic area.

A traffic control center is a key component of a successful intelligent transportation system. Traffic control centers provide effective, efficient responses to incidents, special events, and roadway construction to ensure the smooth flow of traffic.

Traffic cameras employed by traffic control centers provide factual information for appropriate traffic decisions and signal adjustments. In addition, traffic cameras provide valuable information for motorists because they allow the tele-viewing of conditions at key intersections across an area. Motorists are able to view conditions at their destination as well as traffic conditions along their route.

On Maui, traffic across the island is routinely backlogged during morning and afternoon rush hours as a result of roadway maintenance and improvements, traffic accidents, or special events. Other examples of commuter traffic backlogs occur in areas such as Paia town where Hana highway meets Baldwin avenue, the

Piilani highway corridor from Kihei to Wailea, and in Lahaina town where Lahainaluna road meets Honoapiilani highway. A traffic control center for the island of Maui, as part of an overall intelligent transportation system, would inform motorists about traffic conditions, maximize traffic flow, and enhance public safety.

The purpose of this Act is to appropriate funds for the development and implementation of an intelligent transportation system architectural plan for Maui, which includes a Maui traffic control center.

SECTION 2. There is appropriated out of the state highway fund the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the development and implementation of an intelligent transportation system architectural plan for Maui, which includes a Maui traffic control center. This project is deemed necessary to qualify for federal aid financing, or reimbursement, or both.

The sum appropriated shall be expended by the department of transportation for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2007.

(Vetoed by Governor and veto overridden by Legislature on July 10, 2007.)

## ACT 7

H.B. NO. 1830

A Bill for an Act Relating to Child Protection.

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

SECTION 1. The legislature finds that as of April 2007, forty-seven states have passed safe-surrender laws to protect newborn infants who might otherwise be abandoned in an unsafe environment. The enactment of laws establishing a safe haven for newborn infants in Hawaii is long overdue.

Current law allows for the prosecution of parents who abandon their newborn infants. These parents are often young mothers who are unable to deal with the harsh reality of parenthood. Their solution is leaving the newborn in a populated area with the hope that someone will find and care for the child. Although the possibility of prosecution was intended to deter mothers from taking such a careless approach, newborn infants have suffered and died as the result of abandonment in life-threatening situations.

“Safe-surrender” laws take a different approach by making the child’s needs the immediate concern, rather than focusing on the mother’s liability. The goal of these laws is to create a system where parents can leave their newborns in a place of safety without fear of being prosecuted for child abandonment. Anonymity, confidentiality, and freedom from prosecution for parents may encourage them to leave a newborn infant at a suitably safe place and thus save the newborn infant’s life. While established adoption procedures may be preferable, safe-surrender laws provide an alternative that saves the lives of newborns.

The purpose of this Act is to establish a safe haven for newborns and provide for their future health and safety by:

- (1) Providing immunity from prosecution for persons leaving an unharmed newborn at a hospital, fire station, or police station, or with emergency medical services personnel;
- (2) Providing immunity from liability to the hospital, fire station, police station, or personnel who receive the newborn; and

- (3) Requiring personnel to make a reasonable effort to obtain certain information pertaining to the child, including the family's medical history, from the person leaving the child.

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

**“CHAPTER  
SAFE PLACE FOR NEWBORNS**

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

“Department” means the department of human services.

“Emergency services personnel” shall have the same meaning as defined in section 78-52.

“Fire station” means a building for fire equipment and firefighters.

“Firefighter” means a member of a fire department whose principal duties are to prevent and fight fires.

“Health care provider” means an individual licensed, certified, or otherwise authorized or permitted by law to provide health care in the ordinary course of business or practice of a profession.

“Hospital” means a facility licensed as a hospital by the department of health and accredited by the Joint Commission on Accreditation of Health Care Organizations.

“Police officer” means any public servant, whether employed by the State or any county, or by the United States, vested by law with a duty to maintain public order, to make arrests for offenses, or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.

“Police station” means a facility where police officers report for assignments, paperwork, and other police business.

“Unharmful condition” means no evidence of injury to a newborn child's physical or psychological health or welfare, as evidenced in any case where:

- (1) The newborn child is alive and exhibits no:
  - (A) Substantial or multiple skin bruising or any other internal bleeding;
  - (B) Injury to skin causing substantial bleeding;
  - (C) Malnutrition;
  - (D) Failure to thrive;
  - (E) Burn or burns;
  - (F) Poisoning;
  - (G) Fracture of any bone;
  - (H) Subdural hematoma;
  - (I) Soft tissue swelling;
  - (J) Extreme pain;
  - (K) Extreme mental distress; or
  - (L) Gross degradation;
- (2) The newborn child has not been the victim of:
  - (A) Sexual contact or conduct, including rape, sodomy, molestation, sexual fondling, or incest;
  - (B) Obscene or pornographic photographing, filming, or depiction; or
  - (C) Other similar forms of sexual exploitation;
- (3) Injury does not exist to the psychological capacity of a child as evidenced by a substantial impairment in the child's ability to function;

- (4) The child has been provided in a timely manner with adequate food, clothing, shelter, psychological care, physical care, medical care, and supervision; or
- (5) The child has not been provided with dangerous, harmful, or detrimental drugs, as defined by section 712-1240; except in cases where a child's family provides the drugs to the child pursuant to the direction or prescription of a practitioner, as defined in section 712-1240.

**§ -2 Unharmed newborn children left at hospitals, fire stations, or police stations, or with emergency services personnel; avoidance of prosecution.**

A person may leave a newborn child with the personnel of a hospital, fire station, or police station or emergency services personnel without being subject to prosecution for abandonment of a child pursuant to section 709-902; provided that:

- (1) The newborn child was born within seventy-two hours of being left at the hospital, fire station, or police station, or with emergency services personnel as determined within a reasonable degree of medical certainty; and
- (2) The newborn child is left in an unharmed condition.

**§ -3 Safe place for newborns.** (a) The personnel of a hospital, fire station, or police station, or emergency services personnel may receive a newborn child; provided that the newborn child was born within seventy-two hours of being left at the hospital, fire station, or police station, or with emergency services personnel as determined within a reasonable degree of medical certainty.

(b) When a person leaves a newborn child with the personnel of the hospital, fire station, or police station, or emergency services personnel, the personnel:

- (1) Shall make every reasonable effort to solicit the following information from the person leaving the newborn child:
  - (A) The name of the newborn child;
  - (B) The name and address of the parent or person dropping off the newborn child;
  - (C) The location where the newborn child was born;
  - (D) Information pertaining to the newborn child's medical history;
  - (E) The newborn child's biological family's medical history, including major illnesses and diseases; and
  - (F) Any other information that might reasonably assist the department in determining the best interests of the newborn child, including whether the parents plan on returning to seek custody of the child in the future;

provided that refusal of the person leaving the newborn child to provide such information shall not prevent personnel from accepting the newborn child;

- (2) May provide the person leaving the newborn child with information on how to contact relevant social service agencies; and
- (3) Shall notify appropriate law enforcement agencies that a newborn child was received, for purposes of matching the child with missing children reports.

(c) If a hospital, fire station, or police station, or emergency services personnel receives a newborn child pursuant to subsection (a), any health care provider, firefighter, police officer, or emergency services personnel receiving the newborn child shall perform any act necessary, in accordance with generally accepted standards of their respective professional practice, to protect, preserve, and aid the physical health and safety of the newborn child during the temporary physical custody.

§ **-4 Reporting.** Within twenty-four hours of receiving an unharmed newborn child under section -3, the personnel of the hospital, fire station, or police station, or emergency services personnel shall inform the department that a newborn child has been left at the premises; provided that the department shall not be informed until the person leaving the newborn child has left the premises. If the newborn child is received in a harmed condition, the hospital, fire station, police station, or emergency services personnel shall notify appropriate law enforcement agencies, regardless of whether the person or persons leaving the newborn child has left the premises.

§ **-5 Immunity.** (a) A hospital with responsibility for performing duties under this chapter, any health care provider, or hospital personnel working at the hospital, a fire station and any firefighter or fire personnel, a police station and any police officer or police personnel, and emergency services personnel acting in good faith in receiving a newborn child shall be immune from:

- (1) Any criminal liability that otherwise might result from their actions; and
- (2) Any civil liability that otherwise might result from merely receiving a newborn child.

(b) A hospital performing duties under this chapter and any health care provider or hospital personnel working at the hospital, a fire station and any firefighter or fire personnel, a police station and any police officer or police personnel, and any emergency services personnel who are mandated reporters under section 350-1.1 shall be immune from any criminal or civil liability that otherwise might result from the failure to make a report under section 350-1.1 if the person is acting in good faith in complying with this chapter.

§ **-6 Authority to reunite; placement.** (a) Upon receiving custody of a newborn child who has been discharged from a hospital that received the newborn child pursuant to section -3, the department may reunite the newborn child with the newborn's parents.

(b) The department may:

- (1) Search for relatives of the newborn child as a placement or permanency option; or
- (2) Implement other placement requirements that give a preference to relatives;

provided that the department has information as to the identity of the newborn child, the newborn child's mother, or the newborn child's father.

§ **-7 Status of child.** For purposes of proceedings under this chapter and adoption proceedings, a newborn child left at a hospital, fire station, or police station or with emergency services personnel under section -2 shall be considered an abandoned child."

SECTION 3. Section 709-902, Hawaii Revised Statutes, is amended to read as follows:

**"§709-902 Abandonment of a child.** (1) A person commits the offense of abandonment of a child if, being a parent, guardian, or other person legally charged with the care or custody of a child less than fourteen years old, the person deserts the child in any place with intent to abandon it.

(2) Leaving a newborn child at a hospital, fire station, or police station or with emergency services personnel pursuant to section -2 shall not constitute a violation of this section.

~~[(2)]~~ (3) Abandonment of a child is a misdemeanor."

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 and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2007.

(Vetoed by Governor and veto overridden by Legislature on July 10, 2007.)

## ACT 8

S.B. NO. 932

A Bill for an Act Relating to a Comprehensive Offender Reentry System.

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

### PART I

SECTION 1. The legislature finds that in 2005, there were 16,825 persons on probation statewide under the jurisdiction of the State's four judicial districts. Additionally, in 2005, the Hawaii paroling authority was responsible for supervising 2,119 parolees. As of December 25, 2006, the department of public safety had 5,982 persons in its correctional system. These numbers are significant in the context of a comprehensive effort to reintegrate ex-offenders back into our communities as productive, law-abiding citizens.

In recent years, state and local government agencies throughout the country have begun to establish improved systems for reintegrating ex-offenders as a way to prevent large numbers of offenders from returning to prison. A United States Department of Justice study found that sixty-seven per cent of those released from state prisons in 1994 were re-arrested for a new crime within the first three years after their release. Forty-six per cent of the arrestees were reconvicted for a new crime and fifty-one per cent were returned to prison. Efforts to reduce recidivism would greatly benefit the State of Hawaii, given that the State's prison capacity is sorely inadequate and has been severely overcrowded for the past two decades.

The financial, social, and economic costs of incarceration without rehabilitation are staggering. According to the 2004 annual report of the department of public safety, the corrections division budget for fiscal year 2003-2004 was \$190,000,000. This figure excludes the nearly \$50,000,000 in costs attributable to the contract with the Corrections Corporation of America to house Hawaii offenders in four private correctional institutions in the continental United States. Further, this figure does not include the cost of arrest and prosecution, nor does it take into account the cost to victims. There are also financial costs associated with the health care of incarcerated populations, who have a high prevalence of infectious disease, substance abuse, and mental health disorders.

One of the most significant social costs of incarceration is its impact on children. A report commissioned by Child and Family Services in 2003 estimated that there were approximately six thousand children of incarcerated parents in Hawaii. According to the federal Bureau of Prisons, there is evidence to suggest that offenders who retain kinship ties with their children and families are more likely to avoid negative behavior while incarcerated and are more likely to obtain reduced sentences.

In terms of economic costs, studies have shown that fifteen to twenty-seven per cent of prisoners expect to go to a homeless shelter upon release from prison.

Additionally, as many as sixty per cent of ex-offenders fail to find stable employment in the legal labor market one year after release. A felony record precludes many from gainful employment and may result in persistent discrimination in the labor market. In addition to housing and employment, there are the enormous economic costs of crimes committed in order to obtain money for drugs.

The legislature further finds that sixty to eighty per cent of the nation's correctional population has used illegal drugs at some point in their lives. Furthermore, a United States Department of Justice analysis indicates that only fifty per cent of federal offenders and forty per cent of state offenders have taken part in substance abuse treatment programs since being admitted to prison. Substance abuse education, treatment, intervention, and follow-up services are clearly needed in a comprehensive offender reentry system.

An offender reentry system must also consider the correlation between education and recidivism. According to the National Institute for Literacy, seventy per cent of all offenders function at the two lowest literacy levels. A Bureau of Justice Statistics analysis has found that less educated offenders are more prone to recidivism. Moreover, a recent United States Department of Education study found that participation in a state correctional education program lowers the likelihood of reincarceration by twenty-nine per cent. A federal Bureau of Prisons study found a thirty-three per cent drop in recidivism among federal prisoners who participated in vocational and apprenticeship training.

The legislature finds that increased recidivism results in profound collateral consequences, including public health risks, homelessness, unemployment, and disenfranchisement. Accordingly, systems and programs that provide assistance with offenders' transition from institutional to community life are critical to the families, neighborhoods, and communities to which the offender returns.

The legislature further finds that in order for an offender to successfully reenter the community, the offender must have access to a full continuum of services during incarceration and immediately upon release. Correctional institutions, corporate and not-for-profit agencies, as well as faith-based institutions must be involved in a comprehensive effort to meet the needs of offenders returning to our communities. Support services needed upon release include education, continuing education, vocational training, follow-up treatment services, support with finding housing and employment, and help with family issues and other elements of life after incarceration.

The purpose of this part is to establish a comprehensive offender reentry system under the purview of the department of public safety that assists adult offenders with their reintegration back into our communities and offers a full continuum of services that are accessible during and immediately after their incarceration. Parts II through VI address specific elements of the comprehensive offender reentry system.

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

**“CHAPTER  
COMPREHENSIVE OFFENDER REENTRY SYSTEM**

**PART I. GENERAL PROVISIONS**

§ -1 **Title.** This chapter shall be known and may be cited as the Community Safety Act.

§ -2 **Definitions.** When used in this chapter:

“Community-based long-term support programs” include programs administered and operated by community agencies, faith-based organizations, and other entities offering support to offenders for at least one year.

“Community-based programs” are programs that are administered and operated outside of a correctional facility.

“Department” means the department of public safety.

“Institution-based programs” are services offered within a correctional facility.

“Reentry programs” include programs that are located within a correctional facility.

“Reintegration programs” include programs that are located within a correctional facility.

“Transition programs” include programs that are located within a correctional facility.

**§ -3 Offender reentry system plan; creation.** (a) The department of public safety shall develop a comprehensive and effective offender reentry system plan for adult offenders exiting the prison system.

(b) The department of public safety shall develop comprehensive reentry plans and curricula for individuals exiting correctional facilities in order to reduce recidivism and increase a person’s successful reentry into the community. The reentry plans shall include, but not be limited to:

- (1) Adopting an operational philosophy that considers that offender reentry begins on the day an offender enters the correctional system. Each offender entering the system shall be assessed to determine the offender’s needs in order to assist the individual offender with developing the skills necessary to be successful in the community;
- (2) Providing appropriate programs, including, but not limited to, education, substance abuse treatment, cognitive skills development, vocational and employment training, and other programs that help to meet the assessed needs of each individual;
- (3) Developing a comprehensive network of transitional programs to address the needs of individuals exiting the correctional system;
- (4) Ensuring that all reentry programs are gender-responsive;
- (5) Issuing requests for proposals from community-based nonprofit programs with experience with offenders in the area of reentry; and
- (6) Instituting model reentry programs for adult offenders.

**§ -4 Model programs; department of public safety.** Subject to funding by the legislature, the department of public safety shall enhance the State’s comprehensive offender reentry system by developing model programs designed to reduce recidivism and promote successful reentry into the community. Components of the model programs shall include but are not limited to:

- (1) Highly skilled staff who are experienced in working with offender reentry programs;
- (2) Individualized case management and a full continuum of care to ensure successful reentry;
- (3) Life skills development workshops, including budgeting, money management, nutrition, and exercise; development of self-determination through education; employment training; special education for the learning disabled; social, cognitive, communication, and life skills training; and appropriate treatment programs, including substance abuse and mental health treatment;
- (4) Parenting and relationship building classes. The department shall institute policies that support family cohesion and family participation in

- offenders’ transition to the community, and, where possible, provide geographical proximity of offenders to their children and families; and
- (5) Ongoing attention to building support for offenders from communities, community agencies, and organizations.

§ **-5 Children of incarcerated parents; families.** The director of public safety shall:

- (1) Establish policies or rules that parent inmates be placed in correctional facilities, consistent with public safety and inmate security, in the best interest of the family, rather than on economic or administrative factors;
- (2) Consider as a factor an offender’s capacity to maintain parent-child contact when making prison placements of offenders;
- (3) Conduct, coordinate, or promote research that examines the impact of a parent’s incarceration on the well-being of the offender’s child that shall include both direct contact with an offender’s child, as well as reports of caregivers; and
- (4) Conduct, coordinate, or promote research that focuses on the relationship of incarcerated fathers with their children and the long-term impact of incarceration on fathers and their children.

§ **-6 Employment of ex-offenders.** (a) The director of labor and industrial relations shall take the necessary steps to ensure offenders and ex-offenders are included and involved in utilizing state and private resources for employment and training opportunities as well as life skills and educational opportunities.

(b) The department of public safety, with the assistance of the department of taxation and the department of labor and industrial relations, shall develop and propose for legislative consideration, tax incentives for employers who hire individuals who were formerly incarcerated.

§ **-7 Return of out-of-state inmates.** (a) The director of public safety shall return Hawaii inmates held in out-of-state prisons at least one year prior to the inmate’s parole or release date in order for these inmates to participate in programs preparing them for reentry on the island where they have the most support; provided that inmates participating in reentry programs at the mainland facility in which they are incarcerated consent to the return.

(b) The provisions of subsection (a) shall not prevent the return of other Hawaii inmates held in out-of-state prisons with less than one year left of their sentence from being returned in preparation for reentry to the island where they have the most support.

(c) The department of public safety shall provide a report to the legislature at the end of each calendar year on any inmates not returned pursuant to this section with an explanation of the reasoning and circumstances for noncompliance.

**PART II. OFFENDER REENTRY LEGISLATIVE OVERSIGHT COMMITTEE**

§ **-21 Legislative oversight committee; established.** There is established a legislative oversight committee to ensure transparency in the operations of the department, analyze the effectiveness of the department’s governance, operations, and administration of its programs and services, evaluate the department’s purchase of community-based programs and services, and review any other issues impacting the department. The legislative oversight committee shall conduct site visits and have access to all areas in correctional facilities, within the constraints of safety and

security. The legislative oversight committee shall meet publicly for input and recommendations for the department. The legislative oversight committee shall be composed of members of the standing committees of both houses of the legislature whose purview is to oversee the department. The legislative oversight committee shall be jointly chaired by the legislative standing committees' respective chairs.

### **PART III. ADULT OFFENDER REENTRY PROGRAMS AND SERVICES**

§ -31 **Adult offender reentry programs and services.** (a) The director of public safety may authorize purchase of service contracts, in accordance with chapter 103F, subject to legislative or other appropriate funding, for adult offender reentry programs and services that establish or improve the offender reentry system and in which each adult offender in state correctional custody is provided an individualized reentry plan.

(b) Subject to funding by the legislature or other appropriate sources, the department of public safety shall authorize the purchase of service contracts for activities that:

- (1) Coordinate the supervision and services provided to adult offenders in state custody with the supervision and services provided to offenders who have reentered the community;
- (2) Coordinate efforts of various public and private entities to provide supervision and services to ex-offenders after reentry into the community with the offenders' family members;
- (3) Provide offenders awaiting reentry into the community with documents, such as identification papers, referrals to services, medical prescriptions, job training certificates, apprenticeship papers, information on obtaining public assistance, and other documents useful in achieving a successful transition from prison;
- (4) Involve county agencies whose programs and initiatives strengthen offender reentry services for individuals who have been returned to the county of their jurisdiction;
- (5) Allow ex-offenders who have reentered the community to continue to contact mentors who remain incarcerated through the use of technology, such as videoconferencing, or encourage mentors in prison to support the ex-offenders' reentry process;
- (6) Provide structured programs, post-release housing, and transitional housing, including group homes for recovering substance abusers, through which offenders are provided supervision and services immediately following reentry into the community;
- (7) Assist offenders in securing permanent housing upon release or following a stay in transitional housing;
- (8) Continue to link offenders with health resources for health services that were provided to them when they were in state custody, including mental health, substance abuse treatment, aftercare, and treatment services for contagious diseases;
- (9) Provide education, job training, English as a second language programs, work experience programs, self-respect and life-skills training, and other skills needed to achieve self-sufficiency for a successful transition from prison;
- (10) Facilitate collaboration among corrections administrators, technical schools, community colleges, and the workforce development and employment service sectors so that there are efforts to:

- (A) Promote, where appropriate, the employment of persons released from prison, through efforts such as educating employers about existing financial incentives, and facilitate the creation of job opportunities, including transitional jobs, for such persons that will also benefit communities;
  - (B) Connect offenders to employment, including supportive employment and employment services, before their release to the community; and
  - (C) Address barriers to employment, including obtaining a driver's license;
- (11) Assess the literacy and educational needs of offenders in custody and provide appropriate services to meet those needs, including follow-up assessments and long-term services;
  - (12) Address systems under which family members of offenders are involved with facilitating the successful reentry of those offenders into the community, including removing obstacles to the maintenance of family relationships while the offender is in custody, strengthening the family's capacity to establish and maintain a stable living situation during the reentry process where appropriate, and involving family members in the planning and implementation of the reentry process;
  - (13) Include victims, on a voluntary basis, in the offender's reentry process;
  - (14) Facilitate visitation and maintenance of family relationships with respect to offenders in custody by addressing obstacles such as travel, telephone costs, mail restrictions, and restrictive visitation policies;
  - (15) Identify and address barriers to collaborating with child welfare agencies in the provision of services jointly to offenders in custody and to the children of those offenders;
  - (16) Collect information, to the best of the department's ability, regarding dependent children of incarcerated persons as part of intake procedures, including the number of children, age, and location or jurisdiction for the exclusive purpose of connecting identified children of incarcerated parents with appropriate services and compiling statistical information;
  - (17) Address barriers to the visitation of children with an incarcerated parent, and maintenance of the parent-child relationship, such as the location of facilities in remote areas, telephone costs, mail restrictions, and visitation policies;
  - (18) Create, develop, or enhance prisoner and family assessments curricula, policies, procedures, or programs, including mentoring programs, to help prisoners with a history or identified risk of domestic violence, dating violence, sexual assault, or stalking reconnect with their families and communities, as appropriate, and become mutually respectful;
  - (19) Develop programs and activities that support parent-child relationships, such as:
    - (A) Using telephone conferencing to permit incarcerated parents to participate in parent-teacher conferences;
    - (B) Using videoconferencing to allow virtual visitation when incarcerated persons are more than one hundred miles from their families;
    - (C) Developing books on tape programs, through which incarcerated parents read a book into a tape to be sent to their children;
    - (D) The establishment of family days, which provide for longer visitation hours or family activities; or
    - (E) The creation of children's areas in visitation rooms with parent-child activities;

- (20) Expand family-based treatment centers that offer family-based comprehensive treatment services for parents and their children as a complete family unit;
- (21) Conduct studies to determine who is returning to prison and which of those returning prisoners represent the greatest risk to community safety;
- (22) Develop or adopt procedures to ensure that dangerous felons are not released from prison prematurely;
- (23) Develop and implement procedures to assist relevant authorities in determining when release is appropriate and in the use of data to inform the release decision;
- (24) Utilize validated assessment tools to assess the risk factors of returning offenders to the community and prioritizing services based on risk;
- (25) Facilitate and encourage timely and complete payment of restitution and fines by ex-offenders to victims and the community;
- (26) Consider establishing the use of reentry courts to:
  - (A) Monitor offenders returning to the community;
  - (B) Provide returning offenders with:
    - (i) Drug and alcohol testing and treatment; and
    - (ii) Mental and medical health assessment services;
  - (C) Facilitate restorative justice practices and convene family or community impact panels, family impact educational classes, victim impact panels, or victim impact educational classes;
  - (D) Provide and coordinate the delivery of other community services to offenders, including:
    - (i) Housing assistance;
    - (ii) Education;
    - (iii) Employment training;
    - (iv) Children and family support;
    - (v) Conflict resolution skills training;
    - (vi) Family violence intervention programs; and
    - (vii) Other appropriate social services; and
  - (E) Establish and implement graduated sanctions and incentives; and
- (27) Provide technology and other tools necessary to advance post-release supervision.”

SECTION 3. The director of public safety may establish any necessary staffing, including one manager, two full-time reentry specialists, one secretary, and one clerk-typist within the department of public safety to ensure that offenders have access to reentry programming within all state facilities, monitor all state contracted reentry programs, and facilitate parent-child relationships in the context of correctional facility governance.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$245,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the staffing established in section 3 and operational expenses including but not limited to, employee benefits, computers, desks, supplies, travel expenses, and refreshments.

The sum appropriated in this section shall be expended by the department of public safety for the purposes of this part.

## PART II

SECTION 5. The legislature finds that some criminal offenders, due to the nature of their crimes, will remain in prison for life. However, a significant majority will serve their sentence and be released. Over ninety-eight per cent of criminal offenders in Hawaii will eventually return to our communities. During fiscal year 2003, the department of public safety released 10,629 offenders.

The legislature finds that, in order for an offender to successfully reenter the community, the offender must have access to a full continuum of services during incarceration and immediately upon release. These services include education, continuing education, vocational training, substance abuse treatment, follow-up treatment services, support with finding housing and employment, and help with family issues and other elements of life after incarceration.

During incarceration, offenders may qualify to be transferred to a minimum security correctional facility to participate, as appropriate, in treatment-based services, such as substance abuse treatment at Waiawa correctional facility or sex offender treatment at Kulani correctional facility. When an offender attains community custody status, the offender may participate in furlough, extended furlough, transition, and reintegration programs in the community. These types of programs constitute the latter segment of a continuum of services that help offenders reenter the community as productive, law-abiding citizens.

Furlough and work release programs include the Laumaka work furlough program, located adjacent to the Oahu community correctional center. Extended furlough programs involve offenders who live and work in the community but are required to return to a correctional facility during weekday or weekend evenings. Others on extended furlough may live at home and be supervised through an electronic monitoring device. Transition and reintegration programs are usually located in the community and are provided by community-based agencies such as TJ Mahoney and the Big Island Substance Abuse Council, which offer residential transition and reintegration services for female offenders.

The legislature further finds that extended furlough programs could ease overcrowding by freeing up scarce bed space for offenders who require more restrictive environments and pose a risk to public safety. A type of extended furlough program is the day reporting center. Unlike the community correctional centers, or jails, a day reporting center is non-residential and offenders are required to report to the centers but return to their homes at night.

The typical day reporting program operates five days per week and has a duration of approximately six months. Day reporting centers emphasize:

- (1) Intensive supervision, frequent substance abuse testing, and substance abuse follow-up education in group sessions;
- (2) Anger management, parenting, and help with obtaining education classes;
- (3) Vocational assessment, employment training, and life-skills development; and
- (4) Assistance with various issues of adjusting to life in the community.

The first day reporting center was established in England in 1974. The first American center opened in 1986 in Hamden, Massachusetts. By 1995, one hundred fourteen day reporting centers were established in twenty-two states.

Hawaii does not currently have a day reporting center. In the late 1980s and early 1990s, the department of public safety attempted to create a day reporting center in module twenty of the Oahu community correctional center, but overcrowding necessitated that the space be used for housing offenders. Attempts were also made to use the Hale Nani reintegration center on the island of Hawaii as a day

reporting center, but again, the space was needed for offender housing and other programs.

The purpose of this part is to establish a one-year pilot day reporting center at an existing state site, facility, or building designated by the governor for use as a day reporting center.

SECTION 6. The department of public safety, through its intake service centers and education divisions, shall establish a one-year pilot day reporting center that will be available to two hundred offenders who have six months to one year left to serve on their sentence. The center shall offer a continuum of services to prepare offenders for transition and reintegration into the community. The center staff shall consist of a program director, counselors, social workers, and other professional and clerical staff. The ideal ratio of counselors to offenders shall be one counselor for every twenty-five offenders. The ideal ratio of social workers to offenders shall be one social worker for every fifteen offenders. The department of public safety may contract with a private or not-for-profit agency for the necessary services to carry out the purposes of this part.

SECTION 7. The department of public safety shall submit, no later than twenty days prior to the start of the 2008 and 2009 regular sessions of the legislature, a written report on:

- (1) The outcome of the pilot project;
- (2) Cost analysis and an accounting of expenses;
- (3) Relevant data on program participants;
- (4) Program and management evaluations; and
- (5) Any other pertinent information, recommendations, or proposed legislation, if any, to determine whether the program should be continued.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,820,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the establishment of a one-year pilot day reporting center.

The sum appropriated shall be expended by the department of public safety, who may contract with a private or nonprofit agency to operate the day-reporting center for the purposes of this part.

### PART III

SECTION 9. The legislature finds that restorative circles is a pilot program that has been in place at the Waiawa correctional facility since March 2005. The program is based on the methodological tool known as "restorative justice," which aims to address the unresolved issues faced by victims, offenders, and their families. The program brings together victims, offenders, and their personal supporters in a carefully managed, safe environment. The process is both a powerful healing tool and a way to empower victims to make decisions about how to repair the harm caused by offenses.

Participation in the program is voluntary and only available to victims who want to participate and to inmates who want to reconcile with their victims. The process begins when an inmate requests a "restorative circle" from the inmate's case worker. A restorative circle is a group process that requires an impartial, trained, and experienced community facilitator to meet with the inmate. The facilitator and the inmate discuss the protocol, and determine who the inmate has harmed by the inmate's past behavior and who the inmate wants to invite for support. Each restorative circle lasts about three hours, with half of the time devoted to reconciliation and the other half devoted to developing a reentry transition plan. To date, there have been approxi-

mately twenty-seven restorative circles with a one hundred per cent satisfaction rate reported by the participating victims, offenders, and prison staff.

This innovative Hawaii pilot program has been highlighted by Federal Probation Journal, Honolulu Magazine, and KITV News. The program recently expanded to the women's community correctional center. Considering that approximately ninety-eight per cent of all inmates will eventually be released back into the community, a program such as this one is vital because it helps an offender take responsibility for past behavior and plan for release.

**SECTION 10.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$202,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the continuation and expansion of the restorative circles pilot program to other correctional facilities statewide.

**SECTION 11.** The department of public safety shall contract the services of a provider to establish restorative circles pilot programs in other correctional facilities statewide. The contract shall be executed in accordance with chapter 103F, Hawaii Revised Statutes.

**SECTION 12.** The sum appropriated in section 10 shall be expended by the department of public safety for the purposes of this part.

#### **PART IV**

**SECTION 13.** The legislature finds that the Hawaii paroling authority, through its parole release programs, must continue to strive to provide a meaningful opportunity for individual offenders to successfully reintegrate into society while serving their sentences. The legislature also finds that, in addition to personal effort, offenders require active family and community support, as well as employment and educational opportunities, to function as law-abiding citizens.

In 1993, the legislature amended section 353-64, Hawaii Revised Statutes, to require the Hawaii paroling authority to parole a committed person in the county where the committed person had a permanent residence or occupation or employment prior to incarceration, unless that person will reside in a county with a population exceeding eight-hundred thousand, or will immediately depart the State. Where none of those conditions can be met, the committed person will be released to the county of original commitment. At that time, the rationale was that such a requirement would, "prevent the mass release of parolees in the county where confinement institutions are located. Otherwise, the location of new prisons on the neighbor islands will be difficult or impossible." See, S.C. Rep. 486, Judiciary on S.B. No. 833 (1993). Section 706-670, Hawaii Revised Statutes, was also amended to include that same parole requirement. In practical terms, the only county in the State of Hawaii in which the population exceeds eight-hundred thousand persons is the city and county of Honolulu.

As a result of this requirement, the Hawaii paroling authority is precluded from conducting an individualized assessment and paroling of committed persons to the county where they have the greatest support and opportunities to assist the offender in making a successful transition into the community upon their eventual release. The effect is that committed persons that have family, children, community support, employment, training, or educational opportunities in the counties of Kauai, Maui, and Hawaii are prohibited from being paroled to these counties, unless they had a permanent residence or occupation or employment there prior to incarceration.

A variety of studies have found that increased contact between inmates and their families can contribute to an inmate's successful reintegration into the commu-

nity after release. In making the transition back into the community, former inmates turn to their spouses, parents, siblings, grandparents, and other family members for assistance. These family members become the “front line” of reentry, providing former inmates with critical material and emotional support including shelter, food, clothing, leads for jobs, and guidance in staying sober or avoiding criminal behavior. Significantly, successful reintegration is an indicator of reduced risk of re-offense. In turn, decreased recidivism rates benefit the entire citizenry of Hawaii.

The purpose of this part is to grant the Hawaii paroling authority the authority to parole committed persons to a county in the State where the committed person has the greatest family or community support, opportunities for employment, job training, education, treatment, and other social services. This amendment will enable the Hawaii paroling authority to achieve its mission of providing meaningful opportunities for offenders to reintegrate into society and demonstrate that they have the potential to function as law-abiding citizens.

SECTION 14. Section 353-64, Hawaii Revised Statutes, is amended to read as follows:

“**§353-64 Committed persons paroled.** Any committed person confined in any state correctional facility in execution of any sentence imposed upon the committed person, except in cases where the penalty of life imprisonment not subject to parole has been imposed, shall be subject to parole in the manner and form as set forth in this part; provided that the committed person shall be paroled in the county where the committed person had a permanent residence or occupation or employment prior to incarceration, unless:

- (1) The committed person will reside in a county in which the population exceeds eight-hundred thousand persons; [øø]
- (2) The committed person will be released for immediate departure from the State[-.]; or
- (3) The committed person shall be released to the county in the State in which the committed person has the greatest family or community support, opportunities for employment, job training, education, treatment, and other social services, as determined by the Hawaii paroling authority; provided that to be considered for parole to another county in the State, the committed person shall provide a written request to the department not less than six months prior to the expiration of the committed person’s longest minimum sentence.

Provided further that to be eligible for parole, the committed person, if the person is determined by the department to be suitable for participation, must have been a participant in an academic, vocational education, or prison industry program authorized by the department and must have been involved in or completed the program to the satisfaction of the department; and provided further that this precondition for parole shall not apply if the committed person is in a correctional facility where academic, vocational education, and prison industry programs or facilities are not available. A grant of parole shall not be subject to acceptance by the committed person.”

SECTION 15. Section 706-670, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

“(3) Prisoner’s plan and participation. Each prisoner shall be given reasonable notice of the prisoner’s parole hearing and shall prepare a parole plan, setting forth the manner of life the prisoner intends to lead if released on parole, including specific information as to where and with whom the prisoner will reside and what

occupation or employment the prisoner will follow. The prisoner shall be paroled in the county where the prisoner had a permanent residence or occupation or employment prior to the prisoner's incarceration, unless the prisoner will; reside in a county in which the population exceeds eight-hundred thousand persons; reside in a county in the State in which the committed person has the greatest family or community support, opportunities for employment, job training, education, treatment, and other social services, as determined by the Hawaii paroling authority; or [the prisoner will] be released for immediate departure from the State. The institutional parole staff shall render reasonable aid to the prisoner in the preparation of the prisoner's plan and in securing information for submission to the authority. In addition, the prisoner shall:

- (a) Be permitted to consult with any persons whose assistance the prisoner reasonably desires, including the prisoner's own legal counsel, in preparing for a hearing before the authority;
- (b) Be permitted to be represented and assisted by counsel at the hearing;
- (c) Have counsel appointed to represent and assist the prisoner if the prisoner so requests and cannot afford to retain counsel; and
- (d) Be informed of the prisoner's rights as set forth in this subsection."

## PART V

SECTION 16. The legislature finds that, given the problems associated with reentry and the high rate of recidivism among the former inmate population, programs that effectively assist the transition of former inmates from prison to the community promote public safety. Upon release from prison, formerly incarcerated persons face institutional barriers to reentry such as housing and workplace restrictions, as well as the challenges of reconnecting with families and maintaining sobriety.

Research shows that returning prisoners who have access to key supports and services on release commit fewer crimes, maintain employment, and show improved outcomes for health, income, and a broad range of other indicators. Conversely, former prisoners lacking in support and services are more likely to continue to commit crimes.

The legislature further finds that, in Hawaii, a person's stay in a correctional facility costs the public \$70 to \$400 per day, depending upon the level of security measures and programs involved.

These costs can be drastically lowered by reducing the rate of recidivism with comprehensive training and support services for individuals while incarcerated and continuing upon their release into the community. For example, Maui Economic Opportunity, Inc., administers the BEST (Being Empowered and Safe Together) Reintegration Program in collaboration with the department of public safety and receives funding under a federal Serious Violent Offender Reentry Initiative grant, which is designed to serve individuals who are preparing to return to the Maui community after incarceration.

Under the federal grant requirements, BEST serves individuals between the ages of eighteen and thirty-five convicted of class A and B felonies who have been sentenced to a minimum of one year or more of incarceration. The BEST Program provides intensive case management, training, and support services in the areas of employment, housing, cognitive skills restructuring, culture, family reunification, mentoring, and referrals for substance abuse, mental health, and counseling services.

In August 2006, Dr. Marilyn Brown, a University of Hawaii sociologist, issued A Report on Program Implementation and Preliminary Outcomes for the BEST Program. Of the sixty-one BEST clients who have spent time in the community, only nine have been returned to custody as of March 31, 2006. This translates to

a recidivism rate of approximately fifteen per cent. In contrast, a 2002 Bureau of Justice Statistics report entitled *Recidivism of Prisoners Released in 1994*, indicates that approximately sixty-seven per cent of all prisoners released in 1994 were rearrested within three years of release.

Community reintegration programs provide individuals with new tools and support services while instilling values and beliefs that empower them to overcome obstacles and become contributing members of the community.

The purpose of this part is to appropriate funds to support organizations that provide comprehensive training and support services for inmates and formerly incarcerated persons to assist them in their successful reintegration into the community. These programs will help to reduce recidivism rates and increase public safety in the community.

SECTION 17. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,200,000 or so much thereof as may be necessary for fiscal year 2007-2008 for a purchase of service contract pursuant to chapter 103F, Hawaii Revised Statutes, to Maui Economic Opportunity, Inc. for the development and maintenance of inmate reintegration programs.

The sum appropriated shall be expended by the department of public safety for the purposes of this part.

## PART VI

SECTION 18. The legislature finds that, according to the department of public safety, Hawaii parolees incarcerated in the State had a deplorable recidivism rate of between forty-seven and fifty-seven per cent. The recidivism rate for inmates who were housed at out-of-state facilities was even higher, ranging from fifty to seventy-eight per cent. A promising approach to reducing recidivism and helping inmates make the successful transition from prison to the community is to establish a cognitive restructuring and transition program at correctional facilities.

Cognitive restructuring is based on the principle that thinking, an internal behavior, controls overt actions, an external behavior. Cognitive restructuring focuses on the way thoughts and beliefs drive a person's behavior. A cognitive restructuring program for inmates involves self-examination of their belief system, criminal addictive cycle, attitudes and thinking patterns, and develops a relapse prevention plan for future situations. The program assists offenders in "restructuring" their thought process and teaches cognitive skills that help them with basic decision-making and problem-solving. The goal of cognitive restructuring is to guide offenders to consciously examine their own thoughts by engaging in processes that develop self control, thus making them responsible for, and in charge of, their actions no matter how stressful the situation.

The legislature further finds that transition programs prepare an inmate to make a successful transition from prison to the community by assisting them with skills to find housing, prepare for employment, learn money management skills, and obtain support from other resources to become productive, law-abiding citizens.

The purpose of this part is to appropriate funds to establish a cognitive restructuring pilot program in the county of Hawaii to help inmates achieve a successful transition into the community.

SECTION 19. The cognitive restructuring pilot program shall teach specific skills that include problem solving, social skills training, anger management, and empathy training. The cognitive restructuring pilot program shall be established in the county of Hawaii at Kulani correctional facility, Hawaii community correctional center, and Hale Nani reintegration center.

SECTION 20. There is appropriated out of the general revenues of the State of Hawaii the sum of \$33,000 or so much thereof as may be necessary for fiscal year 2007-2008 for a cognitive restructuring pilot program to be established in the county of Hawaii at Kulani correctional facility, Hawaii community correctional center, and Hale Nani reintegration center.

The sum appropriated shall be expended by the department of public safety for the purposes of this part.

## PART VII

SECTION 21. The department of public safety shall report to the legislature no later than twenty days prior to the convening of the 2008, 2009, and 2010 regular legislative sessions on the implementation, progress, and effectiveness of the components of this measure.

SECTION 22. The department of public safety shall report to the legislature no later than twenty days prior to the convening of the 2008 regular legislative session with suggested tax incentives for employers who hire individuals who were formerly incarcerated, developed with the assistance of the department of taxation and the department of labor and industrial relations, as mandated in section 1 of this Act.

SECTION 23. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 24. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 25. This Act shall take effect on July 1, 2007.

(Vetoed by Governor and veto overridden by Legislature on July 10, 2007.)

## ACT 9

S.B. NO. 1066

A Bill for an Act Relating to Invasive Species.

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

SECTION 1. Chapter 150A, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§150A-A Inspection, quarantine, and eradication service fee and charge.** (a)<sup>1</sup> There is imposed a fee for the inspection, quarantine, and eradication of invasive species contained in any marine commercial container shipment, foreign or domestic, that is brought into the State. The fee shall be computed on the basis of \$1 for each twenty-foot equivalent unit per container. The department shall collect the fee at the port of disembarkation and deposit the fee into the pest control, quarantine, and eradication fund under section 150A-B.

**§150A-B Pest inspection, quarantine, and eradication fund.** (a) There is established in the state treasury the pest inspection, quarantine, and eradication fund, into which shall be deposited:

- (1) Legislative appropriations for inspection, quarantine, and eradication services;
- (2) Service fees, charges, and penalties collected under section 150A-A;
- (3) Federal funds received for pest inspection, quarantine, and eradication programs;
- (4) Grants and gifts;
- (5) All interest earned or accrued on moneys deposited in the fund; and
- (6) Any other moneys made available to the fund.

(b) The moneys in the pest inspection, quarantine, and eradication fund shall be expended by the department for the operation of pest inspection, quarantine, eradication, and monitoring programs, related facilities, and the execution of emergency remedial measures when pests are detected in the course of inspection and quarantine activities by the department.”

SECTION 2. In codifying the new sections added by section 1 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 3. New statutory material is underscored.<sup>2</sup>

SECTION 4. This Act shall take effect on July 1, 2007.

(Vetoed by Governor and veto overridden by Legislature on July 10, 2007.)

**Notes**

- 1. No subsection (b).
- 2. Edited pursuant to HRS §23G-16.5.

**ACT 10**

S.B. NO. 1191

A Bill for an Act Relating to Pedestrian Safety.

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

SECTION 1. The 2004 ‘Elderly Pedestrian Integration Report’ prepared by SMS Research & Marketing Services, Inc., for the department of transportation indicated that there are approximately five hundred sixty pedestrian injuries in Hawaii each year and that an average of twenty-eight pedestrians die each year after being struck by a car. Elderly pedestrians, age sixty-five and older, constituted the highest number of pedestrian fatalities when compared to all other age groups in Hawaii.

The length of a flashing indication (hand symbol) is calculated based on the length of the crosswalk and the nationally recognized average walking speed of pedestrians.

However, elderly pedestrians need more time to cross major intersections due to diminishing physical abilities. Considering that an elderly pedestrian generally crosses the street at a slower walking speed, limited timeframes to cross the street put elderly pedestrians at risk.

Recently, AARP Hawaii staff, volunteers, and community partners gathered at intersections across Hawaii to conduct ‘walkability’ assessments along many of Hawaii’s busiest streets and identified many intersections where the timeframes to safely cross the street were too short. Hawaii’s elderly pedestrians should not have to rush to cross the street. The length of a flashing signal should be sufficient for elderly pedestrians to safely cross the street.

While the elderly, children, and disabled persons are the most vulnerable, others are also at risk. Already in 2007, eleven pedestrians have been killed. At the current rate, 2007 could be one of the most dangerous years ever for pedestrians in Hawaii. Immediate action is necessary.

The purpose of this measure is to appropriate funds to the department of transportation to work with nonprofit organizations and the counties to take steps for immediate action to make crosswalks and roadways safer.

Making Hawaii's roadways safer for pedestrians is consistent with Kamehameha's famous law, Ke Kanawai Mamalahoe, the Law of the Splintered Paddle, which assures that every man, woman, and child is able to travel freely and in peace. This law is established as state law in article IX, section 10, of the Hawaii State Constitution:

"Let every elderly person, woman and child lie by the roadside in safety – shall be a unique and living symbol of the State's concern for public safety."

SECTION 2. The department of transportation shall work with the counties and nonprofit organizations such as the AARP in implementing improvements – which do not require extensive studies – to make crosswalks and roadways safer for pedestrians, with priority to high-risk areas, including but not limited to:

- (1) Recalibrating traffic signals to lengthen crossing times;
- (2) Accelerating the schedule to replace non-timer crossing signals with traffic countdown timers;
- (3) Strategically reprioritizing installation of traffic countdown timers based on how dangerous the intersection ranks based on available data, including the recent AARP Hawaii study;
- (4) Developing a statewide public awareness campaign;
- (5) Implementing pilot projects using such strategies as pedestrian-activated flashing signals, in-pavement warning lights, and portable hand-carried signs and flags, and advanced crosswalk markers; and
- (6) Enforcement of crosswalk laws for cars and pedestrians.

SECTION 3. There is appropriated out of the state highway fund the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for the department of transportation to work with the counties and nonprofit organizations to identify and implement improvements, which do not require extensive studies to make crosswalks and roadways safer to pedestrians.

Of the total sum of \$3,000,000 in both fiscal years:

- (1) The sum of \$900,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be expended by the department of transportation for purposes of section 2 of this Act; and
- (2) The sum of \$600,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 shall be disbursed as grants-in-aid to the counties for the purchase and installation of traffic countdown timers at county-controlled intersections and other pedestrian safety improvements; provided that no funds shall be released to a county unless that county matches the appropriation on a one-to-one basis. The appropriation to each county for each fiscal year shall be as follows:
 

(A) City and county of Honolulu	\$300,000
(B) Hawaii county	\$150,000
(C) Kauai county	\$ 75,000
(D) Maui county	\$ 75,000

The sums appropriated shall be expended by the respective counties for the purposes of this section.

SECTION 4. The department of transportation shall submit an interim report to the legislature not later than twenty days prior to the convening of the regular session of 2008 and a final report, including accomplishments, findings, future plans, cost estimates, and any proposed legislation relating to pedestrian safety improvements, to the legislature not later than twenty days prior to the convening of the 2009 regular session.

SECTION 5. This Act shall take effect on July 1, 2007.

(Vetoed by Governor and veto overridden by Legislature on July 10, 2007.)

## ACT 11

S.B. NO. 1922

A Bill for an Act Relating to Creative Media.

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

### PART I

SECTION 1. The legislature finds that in 2007, emerging creative media programs at the University of Hawaii academy for creative media, at Waianae high school, or within a broad range of multidisciplinary programs like Project EAST on the neighbor islands have now achieved a specific level of achievements to evaluate their performance in the context of what a globally-integrated economy requires. As pointed out by New York Times columnist Thomas Friedman, in his recent op-ed commentary endorsing the National Center on Education and the Economy's report: "We need to radically overhaul . . . an education system designed in the 1900's for people to do 'routine work' and refocus it on producing people who can imagine things that have never been available before, who can create ingenious marketing and sales campaigns, write books, build furniture, make movies and design software that will capture people's imaginations and become indispensable for millions" (December 13, 2006, *New York Times*).

Just as Waianae Searider Productions has demonstrated the transformational power of multi-media literacy to engage our most at-risk students, and Project EAST students have distinguished themselves in national competitions with their home-grown science-technology and multimedia skills, Hawaii has the opportunity to establish itself as a true "crossroads of the Pacific" for digital and musical education. It is time for Hawaii to take full advantage of its natural constituency with the countries of the Pacific rim and the rising tide of global popular culture in all its forms, including video games, animation, indigenous film, and music.

### PART II

SECTION 2. Since being approved by the University of Hawaii board of regents three years ago, the academy for creative media is the fastest growing new program at the University of Hawaii. For spring 2007, with one hundred seventy-six enrolled students (including sixty majors) who fill two hundred seventy-five seats in twenty of the thirty-two new courses in film production, screenwriting, indigenous filmmaking, computer animation, critical studies, and video game design. More than three hundred fifty original short films and video games have been written, directed,

and produced by students that reflect their unique diversity and backgrounds. Over forty-eight student films were screened at film festivals from Atlanta to Shanghai, including the Hawaii International Film Festival 2004-2006. Students are offered internship opportunities with major motion picture productions (*Superman Returns*) and television shows (*LOST* and local morning news shows), and have opportunities to showcase their work on local television, such as commercials for Toyota/Scion of Hawaii, which were entirely produced by students.

Since its inception, the academy for creative media has been responsible for raising and funding all of its own operating expenses outside of faculty salaries and basic office overhead. This has meant providing all of the funding for hardware, software, computers, cameras, sound equipment, editing equipment, etc. Overall, the academy for creative media has raised over \$1,481,000 to support the students and program.

The school recently received a total of \$200,000 that was privately raised or gifts from generous donors and supporters to build and install the school's animation render farm, a bank of over fifty computers that efficiently converts, assigns, and monitors animation projects. The system is available for all campuses on all islands via the Internet, and is currently being used by the Manoa, Leeward, and Kapiolani campuses, as well as Waianae Seariders Production. An additional \$146,500 has been raised from the Kellogg Foundation, to quadruple the capacity of the animation render farm project to provide system-wide animation computing power, via the Internet, to digital media programs on all of the University of Hawaii campuses and Hawaii public schools at all levels. Furthermore, a \$500,000 federal grant was received for the school to produce an original documentary on statehood, which is currently in post-production.

In spite of its success, the academy for creative media is without a central facility or permanent home on any campus and does not receive any funding for programmatic needs outside of faculty salaries.

The purpose of this part is to:

- (1) Authorize the academy for creative media to designate the existing public broadcasting system (PBS Hawaii) facility and studio located on the University of Hawaii at Manoa campus as an interim home; and
- (2) Appropriate funds for the purposes of this part.

SECTION 3. (a) The existing public broadcasting facility and studio located on the University of Hawaii at Manoa campus shall be leased to PBS Hawaii for a term of not less than thirty-five years. The lease agreement shall include the following:

- (1) PBS Hawaii shall be responsible for renovation and construction of any additional space to the existing facility located at 2350 Dole street;
- (2) PBS Hawaii shall provide an interim home for the academy for creative media in space equal to forty per cent of the net usable square footage of the facility, including any newly constructed space; provided that the academy for creative media shall occupy an exclusive space with no common areas with PBS Hawaii and shall be the only subtenant at the facility;
- (3) PBS Hawaii shall be responsible for the annual maintenance and operating costs of the building and shall continue to pay for the costs attributed to the academy for creative media based on current allocations of cost to square footage;
- (4) The University of Hawaii shall expend at least \$4,870,000, as appropriated in section 3 of this Act, for equipment and installation suitable for the academy for creative media programs, costs associated with handicapped compliance, and common area spaces; and

- (5) A written memorandum of understanding of the above conditions shall be executed between the University of Hawaii at Manoa and PBS Hawaii in 2007.

(b) PBS Hawaii shall share the long-term use of the building without cost, apart from the costs under subsection (a)(1), (2), and (3); provided that if PBS Hawaii is no longer a public broadcasting system affiliate in good standing, or is no longer licensed by the Federal Communications Commission as either a community or university licensee, the facility shall be returned to the University of Hawaii at Manoa.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,870,000 or so much thereof as may be necessary for fiscal year 2007-2008 and \$2,000,000 or so much thereof as may be necessary for fiscal year 2008-2009 for the equipment and installation suitable for the academy for creative media programs, costs associated with handicapped compliance, and common area spaces of the PBS Hawaii facility and studio.

The appropriation made for the equipment and installation for the academy for creative media programs authorized by this part shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all moneys from the appropriation unencumbered as of June 30, 2009, shall lapse as of that date.

The sum appropriated shall be expended by the University of Hawaii for the purposes of this part.

### PART III

SECTION 5. The legislature further finds that Hawaii's music industry is an established segment of Hawaii's creative media industries sector, with a growing popularity reaching far beyond the shores of our island state. Full recognition of the merits of Hawaiian music came in 2005 when the National Academy of Recording Arts and Sciences announced the creation of a Hawaiian music category in its annual Grammy Awards, the world's most prestigious music awards program.

While Hawaii has an unusually high concentration of raw musical talent and industry professionals, it lacks the technical support infrastructure to assist individuals in the progression of their careers and businesses.

The University of Hawaii, Honolulu community college, has been working to build alliances with national and local members of the entertainment industry for the music and enterprise learning experience program. The music and enterprise learning experience (MELE) program combines short-term professional training workshops, songwriter seminars, an associate degree program in music business and production, and a transfer program that allows students to matriculate in Belmont University's music and entertainment management programs. Belmont University, located in Nashville, Tennessee, is one of the premier music and entertainment educational programs in the nation.

The purpose of this part is to establish a music and enterprise learning experience program at the University of Hawaii-Honolulu community college to develop the technical business skills required by Hawaii's music artists and music industry.

SECTION 6. There is established at the University of Hawaii-Honolulu community college campus the music and enterprise learning experience program to expand the existing industry capacity, and to create new technological, intercultural, and genre-bending forms of music through creativity and professional business expertise. The program will be developed around three primary components:

- (1) Artist creativity;

- (2) Entertainment business expertise; and
- (3) Technical production skills.

The program will collaborate with Belmont University of Nashville, Tennessee, on the joint use of Belmont's curriculum, technical facilities and equipment specifications, training, dual credit course offerings, and will also offer internships in some of the most varied music environments in the world.

The program will be seeded through a title III Developing Institutions grant that has been awarded to Honolulu community college native Hawaiian center, and will provide for some basic program development of course offerings in coordination with Belmont University of Nashville, Tennessee.

**SECTION 7.** 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 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 to carry out the purposes of leasing, operating, and maintaining a music and entertainment business training center.

The sums appropriated shall be expended by the University of Hawaii-Honolulu community college for the purposes of this part.

**SECTION 8.** This Act shall take effect on July 1, 2007.

(Vetoed by Governor and veto overridden by Legislature on July 10, 2007.)

**COMMITTEE REPORTS  
ON BILLS WHICH BECAME ACTS**

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**TABLES SHOWING EFFECT  
OF ACTS**

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**GENERAL INDEX**

**COMMITTEE REPORTS ON BILLS ENACTED  
REGULAR AND SPECIAL SESSIONS OF 2007**

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HB0013	194	1066, 1439	14, 1068	130
HB0014	099	1105, 1438	40, 976	73
HB0015	276 <sup>2</sup>	1153, 1476	131, 977	132
HB0018	263	1067, 1475	71, 499, 1192	
HB0019	245	1233, 1511	77, 979	154
HB0021	003	1040	36	
HB0024	228	1154, 1482	45, 500, 1069	151
HB0025	146	1041	37	
HB0030	Sp 1 <sup>3</sup>	1584	382, 985	77
HB0034	192	1179, 1652	7, 312, 1143	86
HB0055	124	1079, 1596	31, 923	157
HB0071	226	1080, 1659	729, 994	56
HB0090	227	1262, 1559	360, 1061	137
HB0104	131	1286, 1640	532, 895	134
HB0116	171	1602	573, 1064	82
HB0122	272 <sup>2</sup>	1525	765	128
HB0154	198	1582	52, 881	
HB0155	121	1181, 1618	468, 935	84
HB0162	167	1312, 1570	944	88
HB0211	086	1170, 1565	651, 1024	
HB0212	219	1249, 1683	22, 639, 1025	201
HB0226	234	1208, 1638	494, 1184	136
HB0249	129	1301, 1651	548, 997	
HB0250	127	1065, 1653	587, 998	81
HB0260	158	1086, 1577	582, 1020	
HB0272	232	1332	826	
HB0275	248	1261, 1504	66, 507, 1185	74
HB0277	077	1185, 1566	594, 936	
HB0310	Sp 2 <sup>3</sup>	1318, 1634	757, 945	182 <sup>4</sup>
HB0317	225	1323, 1512	100, 1088	181
HB0334	229	1160, 1441	528, 867	78
HB0345	023	1486	775	
HB0349	181	1333	593, 836	54
HB0367	178	1215, 1642 <sup>5</sup>	720, 924	161
HB0375	125	1093, 1591	240, 1070	64
HB0389	054	1132	482	
HB0399	287 <sup>2</sup>	1119, 1654	426, 1007	165
HB0400	238	1071, 1619	418, 1008	164
HB0402	145	1087, 1578	547, 1101	80
HB0421	024	1053, 1460	767	
HB0426	039	1163, 1665	337, 1056	
HB0429	117	1204, 1440	73, 1037	
HB0487	249	1598	336, 1053	62
HB0497	286 <sup>2</sup>	1111, 1649	243, 939	
HB0500	213	1586	1215	93
HB0504	118	1205, 1456	74, 971	
HB0506	128	1072, 1342, 1444	373, 1041	127
HB0507	270 <sup>2</sup>	1091, 1513	249, 478, 1021	
HB0513	184	1488	761	

<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>
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HB0531	289 <sup>2</sup>	1165, 1643	169, 614, 1119	135
HB0575	201	1100, 1480	328, 1098	167
HB0581	119	1206, 1555	75, 1038	
HB0598	275 <sup>2</sup>	1232, 1517	72, 982	133
HB0613	012	1048	788	
HB0657	008	1197	88, 940	
HB0659	036	1613	356, 1071	
HB0667	231	1263, 1560	259, 1058	90
HB0692	083	1088, 1453	150, 485, 915	63
HB0714	109	1092	591, 875	55
HB0718	Sp 3 <sup>3</sup>	1090, 1693	758	129
HB0751	123	1258, 1567	162, 1159	145
HB0767	282 <sup>2</sup>	1115, 1483	70, 889	187
HB0776	185	1538	388	
HB0777	273 <sup>2</sup>	1156, 1635	183, 890	188
HB0791	130	1251, 1666	374, 995	69
HB0807	093	1285, 1593	730, 1026	158
HB0831	100	1047, 1447	675, 929	150
HB0833	259	1282, 1668	138, 1163	142
HB0835	203	1603	335, 1059	91
HB0843	113	1250, 1564	222, 1029	159
HB0861	061 <sup>6</sup>	1326, 1698	33, 347, 926	
HB0863	062 <sup>7</sup>	1547	48, 314, 927	
HB0869	254	1180, 1474	200, 1107	98
HB0870	165	1159, 1442	439, 1043	
HB0895	269 <sup>2</sup>	1543	89, 1152	72
HB0899	266 <sup>2</sup>	1184, 1443	286, 1121	138
HB0928	237	1273, 1514 <sup>8</sup>	29, 899	96 <sup>9</sup>
HB0964	179	1246, 1672	305, 837	67 <sup>10</sup>
HB1003	253	1268, 1680	283, 680, 1045	155
HB1004	183	1226, 1676	184, 916	100 <sup>11</sup>
HB1005	177	1227, 1481	185, 917	87
HB1007	030	1272, 1450	367, 856	
HB1008	236	1281, 1641	224, 1030	200
HB1014	280 <sup>2</sup>	1207, 1455	354, 891	189
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HB1044	092	1287, 1594	365, 857	
HB1063	075	1238, 1699	453, 860	76
HB1073	002	316	210	
HB1081	016 <sup>2</sup>	1195	26, 348, 851	
HB1083	267 <sup>2</sup>	1325, 1679	691, 1190	184
HB1095	037	1217, 1696	629, 902	
HB1103	048	1490	790	
HB1108	009	1126	807	
HB1130	200	1611	796	71
HB1138	010	1196	753	
HB1155	098	1606	459, 1074	
HB1157	027	1368	772	
HB1158	011	1128	773	
HB1171	191	1585	963	153
HB1200	170	1296, 1587	734, 1213	95
HB1204	013	1194	390	
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<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>
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HB1212	169	1330, 1588	566, 1214	94
HB1220	120	1297, 1684	490, 1123	163
HB1221	221	1303, 1655	561, 1014	139
HB1225	028	1485	763	
HB1226	005	1336	950	
HB1227	067	1491	951	
HB1231	076	1257, 1687	196, 1187	89
HB1246	197	1605	818	70
HB1248	047	1191	393	
HB1253	088	1131	819	
HB1256	154	1075, 1551	565, 848	
HB1264	186	1539	776	57
HB1270	Sp 4 <sup>3</sup>	1188, 1656	171, 1154	186 <sup>12</sup>
HB1278	020	1158, 1518	330, 1047	
HB1287	029	1082, 1462	764	
HB1291	215	1152, 1572	303, 1165	
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HB1306	095	1223, 1550	512, 877	
HB1307	202	1959	340, 871	
HB1322	214	1229, 1620	188, 869	83
HB1323	224	1228, 1505	189, 1131	
HB1328	049	1224, 1589	191, 913	
HB1334	155	1230, 1454	435, 919	
HB1336	050	1225, 1557	786	
HB1337	188	1599	814	61
HB1338	068	1231, 1516	510, 920	
HB1345	078	1254, 1617 <sup>13</sup>	401, 1106	149
HB1352	140	1083, 1510	235, 1148	170
HB1361	193	1278, 1458	576, 905	
HB1364	223	1277, 1451	534, 906	79
HB1368	090	1174, 1449	221, 854	162
HB1370	066	1172, 1509	318, 1031	58
HB1372	065	1173, 1477	406, 1032	75
HB1376	025	1484	756	
HB1377	017	1166, 1519	319, 1132	
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HB1399	097	1269, 1554	198, 864	
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HB1411	084	1068, 1445	768, 952	
HB1414	045	1052, 1069, 1446 <sup>14</sup>	300, 1109	
HB1427	007	1129	755	
HB1435	156	1321, 1633	233, 1158	166
HB1477	277 <sup>2</sup>	1248, 1478	213, 717, 1177	160
HB1493	199	1104, 1697	49, 741, 988	
HB1500	110	1329, 1646	506, 1171	
HB1503	Sp 5 <sup>3</sup>	1604	135, 1075	68
HB1513	055	1133	395	
HB1518	207	1260, 1590	437, 1076	65
HB1529	112	1107, 1470	108, 1040	202
HB1567	134	1137, 1573	780	144

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HB1569	133	1145, 1616	782	147
HB1570	135	1146, 1647	783	
HB1572	136	1147, 1574	784	146
HB1605	Sp 6 <sup>3</sup>	1098, 1650	301, 1110	92
HB1608	141	1095, 1674 <sup>15</sup>	324, 1078	59
HB1612	189	1541	787	60
HB1614	180	1256, 1595	385, 1094	99
HB1628	164	1292, 1667	375, 872	53
HB1630	271 <sup>2</sup>	1077, 1561	227, 983	131
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HB1646	174	1523	476, 943	52
HB1672	063 <sup>16</sup>	1335	82, 640, 853	
HB1719	239	1309, 1507	179, 1099	169
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HB1746	294 <sup>2</sup>	1328, 1644	310, 975	
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HB1756	015	1334	956	
HB1757	209	1096, 1673 <sup>17</sup>	159, 618, 1100	152 <sup>18</sup>
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HB1830	Sp 7 <sup>3</sup>	1283, 1670	608, 1142	66
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HB1907	153	1176, 1459	423, 1060	
HB1931	143	1489	315, 1083	
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SB0053	038	396, 698	1226, 1471, 1825	
SB0055	072	685	1311, 1778	
SB0056	087	884	1341	28
SB0058	176	561, 660	1223, 1372, 1617	20
SB0060	006	692	1282	
SB0095	041 <sup>2</sup>	138	1324, 1871	
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SB0138	292 <sup>2</sup>	550, 824	1413, 1881	38
SB0139	102	2, 10	1337, 1826	9
SB0148	210	474, 750	1815	114 <sup>20</sup>
SB0149	168	41	1615	48
SB0162	291 <sup>2</sup>	19, 1000	1447, 1899	36
SB0188	217	529, 953	1502, 1851	23
SB0228	196	878	1582	34
SB0249	190	852	1236, 2130	
SB0323	195	145, 584, 936	1408, 1922	
SB0600	166	526, 705	1222, 1472, 1907	178
SB0603	115	522, 754	1509, 1933	195
SB0618	101	16	1369, 1681	11
SB0620	116	437, 756	1807	
SB0667	252	102, 957 <sup>21</sup>	1302, 1817	13
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<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>
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SB0688	281 <sup>2</sup>	119, 721	1323, 1835	173
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SB0784	074	888	1425, 1779	
SB0795	082	216, 784	1375, 1854	46
SB0798	089	79, 362, 1014	1486, 1898	
SB0810	293 <sup>2</sup>	97, 770	1240, 1862	122
SB0820	040 <sup>2</sup>	415, 919	1379, 1827	
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SB0866	187	654	1312	18
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SB0896	150	155, 745	1407, 1858	108
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SB0914	144	107, 789	1489, 1845	191
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SB0923	021	700	1227, 1618	
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SB1008	257	864	1280, 1857	12
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SB1115	147	456, 914	1260, 1837	123
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SB1174	250	109, 941	1491, 1847	192
SB1182	096	130, 359, 989	1345, 1935	39
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SB1372	126	848	1808	104
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SB1459	032	406, 987	1309, 1872	
SB1509	042	634	1581	
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SB1528	069	289, 1003	1428, 1620	4
SB1529	085	290, 1023	1433, 1686	1
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### Notes

1. Vetoed on April 27, 2007 then overridden on May 3, 2007.
2. Became law without the Governor's signature.
3. Vetoed and overridden on July 10, 2007.
4. See also Senate Floor Amendment 24 and House Floor Amendment 20.
5. See also Senate Floor Amendment 15.
6. Vetoed on May 1, 2007 then overridden on May 3, 2007.
7. Vetoed on April 24, 2007 then overridden on May 3, 2007.
8. See also Senate Floor Amendment 10.
9. See also Senate Floor Amendment 29 and House Floor Amendment 15.
10. See also Senate Floor Amendment 28 and House Floor Amendment 13.
11. See also Senate Floor Amendment 30 and House Floor Amendment 23.
12. See also Senate Floor Amendment 25 and House Floor Amendment 21.
13. See also Senate Floor Amendment 14.

14. See also Senate Floor Amendment 9.
15. See also Senate Floor Amendment 18.
16. Vetoed on April 16, 2007 then overridden on May 3, 2007.
17. See also Senate Floor Amendment 17.
18. See also Senate Floor Amendment 22 and House Floor Amendment 19.
19. Vetoed on April 18, 2007 then overridden on May 1, 2007.
20. See also Senate Floor Amendment 31 and House Floor Amendment 24.
21. See also Senate Floor Amendment 5.
22. Vetoed on April 25, 2007 then overridden on May 1, 2007.
23. Vetoed on April 24, 2007 then overridden on May 1, 2007.
24. See also Senate Floor Amendment 6.
25. See also House Floor Amendment 11.
26. See also Senate Floor Amendment 26 and House Floor Amendment 22.
27. See also Senate Floor Amendment 27 and House Floor Amendment 14.
28. Vetoed on April 26, 2007 then overridden on May 1, 2007.
29. See also Senate Floor Amendment 23 and House Floor Amendment 16.

## TABLES SHOWING EFFECT OF ACTS

### Twenty-Fourth State Legislature 2007 Regular and Special Sessions

Key: Am = Amended  
 N = New  
 R = Repealed  
 Ree = Reenacted

Sp = Special Session  
 \_\_\_ = Section number  
 to be assigned in  
 HRS Supplement

#### A. SECTIONS OF HAWAII REVISED STATUTES (HRS) AFFECTED

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